

Exhibit 1: Comments, Oppositions and Other Filings made by MCLM, Mobex or Watercom before the FCC in which they claim they are providing CMRS services to the general public with their AMTS licenses.

Due to their size or the file format in which they were obtained the Exhibits 1-3 are being separately filed with the FCC.

In a review of the documents provided, the FCC will see the statements made by MCLM, Mobex or Watercom that contradict the position MCLM is now arguing in its Recon, Review Request and Refund Request for a refund of the Payments. Underling and bolding has been used to emphasize certain items, as well as text boxes and arrows to highlight items.

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In re:)
Automated Maritime Telecommunications)
System Spectrum Auction) DA 04-954
Auction No. 57)

TO: Wireless Telecommunications Bureau

Comments of Mobex Communications, Inc.

Mobex Communications, Inc. (Mobex), by counsel, respectfully submits the following comments in response to the *Public Notice* released by the Wireless Telecommunications Bureau (Bureau) in this matter.¹ Mobex submits that the scheduled start date for the auction should be extended by four months to give potential bidders time to understand the significant technical requirements of providing maritime service on a co-primary basis and to grasp the heavy presence of incumbents associated with this unique spectrum.

Mobex is the nation's largest licensee of Automated Maritime Telecommunications Services (AMTS) channels, providing a wide variety of commercial mobile radio services to both maritime and land-based customers. Mobex operates AMTS systems along most of the nation's major inland waterways and major portions of the Gulf of Mexico, Atlantic and Pacific coasts. In addition to Mobex licenses, the Commission has issued numerous other licenses for AMTS operations; a review of the Commission's Universal Licensing System database indicates that

¹ Automated Maritime Telecommunications System Spectrum Auction Scheduled for September 15, 2004, *Public Notice*, AUC-04-57-A, DA 04-954 (Apr. 5, 2004).

more than one hundred (100) AMTS licenses are active in the 217-218/219-220 frequencies.² However, the number of licenses substantially understates the actual penetration of incumbent systems throughout the nation. Each license may represent dozens of sites, spanning hundreds of miles and creating an expansive authorized service area of incumbent AMTS licensees.³

Mobex submits that the September 2004 scheduled auction date provides inadequate time for potential bidders to analyze both technical and financial issues related to this spectrum. Furthermore, Mobex notes that the status of the service rules for AMTS is the subject of a petition for review before the United States Court of Appeals for the D.C. Circuit.⁴ Mobex submits that the scheduled date of the auction should be extended by just four months. Such an extension of the auction date 1) permits potential bidders to completely and thoroughly analyze the AMTS spectrum from a technical and financial standpoint and 2) allows several months for progression of the AMTS litigation at the D.C. Circuit.

I. Technical Analysis

The Commission itself has noted that AMTS frequencies are heavily encumbered and has warned bidders that they must protect incumbent operators. Specifically, the Commission has acknowledged that there are incumbent AMTS licensees in most of the population centers of the nation; companies “are licensed to serve much of the Atlantic, Pacific, Hawaii [], Great Lakes, and Puerto Rico [] coastlines, and the Mississippi River System [] and the Gulf of Mexico [].”⁵

² FCC Universal Licensing System, (last visited April 14, 2004) *available at* <http://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>.

³ See, e.g. FCC station KSC779 authorizing Paging Systems, Inc. to provide incumbent service for hundreds of miles along the U.S. shores of Lake Ontario and Lake Erie. See also, FCC station KAE889 authorizing Mobex to provide incumbent service using 49 different locations along the entire Pacific coast of the continental United States.

⁴ *Havens v. FCC*, 03-1446, D.C. Cir., Petition for Review filed December 18, 2003.

⁵ Amendment of the Commission’s Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, FCC 02-74, 17 FCC Rcd 6685, 6690 ¶22 (2002) (“Maritime Rules Second MO&O”).

From Boston to Miami, Tampa to Houston, San Diego to Seattle, Milwaukee to Buffalo and most populated areas in between the AMTS spectrum is encumbered. Not only is there widespread AMTS deployment, but successful bidders for geographic licenses will have to provide significant interference protection to these incumbent licensees.⁶

In general, the Bureau repeatedly reminds potential bidders that they bear the sole risk of fully analyzing spectrum prior to bidding upon it at auction.⁷ However, in this auction, the Commission itself has made a particular point of warning bidders that they must perform technical due diligence for AMTS spectrum.⁸ That technical due diligence will be extremely time consuming, as potential bidders must conduct a review of each area covered by the geographic license at auction. In turn, potential bidders must review hundreds of licensed and unlicensed operations which affect the subject geographic areas.⁹ Of note, the Commission has made particular reference to interference problems with unlicensed operations in this band.¹⁰ Potential bidders will need to identify each incumbent site and research the authorized technical

⁶ The Commission's initial restriction on geographic licenses was a 120 kilometer required separation from an incumbent's base station, Maritime Rules Second MO&O, ¶ 31, however, this was further expanded to use interference contours (18 dB protection to a predicted 38 dBu service contour) as the limitation for geographic licenses. See Amendment of the Commission's Rules Concerning Maritime Communications, *Third Memorandum Opinion and Order*, PR Docket No. 92-257, FCC 03-270, ¶23 (rel. Nov.18, 2003).

⁷ See e.g. Auction of 24 GHz Service Licenses Scheduled for July 28, 2004, *Public Notice*, AUC-04-56-B, DA 04-633 (Mar. 12, 2004) *highlighting* that "Potential applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which [incumbents] may affect their ability to bid on, otherwise acquire, or make use of licenses available . . ."

⁸ Maritime Rules Second MO&O, ¶22.

⁹ Although reference is made herein to more than 100 Marine Coast licenses using the 217-218/219-220 frequencies, these frequencies and adjacent spectrum are also licensed or authorized for use in the 218-219 MHz Service as well as certain unlicensed operations that are categorically licensed by rule. (See e.g. 47 C.F.R. §§ 95.801 and 95.1001.)

¹⁰ The Commission has acknowledged that numerous unlicensed operations - - equipment not requiring individual FCC licenses - - occur in the band which is being auctioned. See Maritime Rules Second MO&O, ¶25.

parameters in order to determine the protection requirements which will be imposed upon auctioned licenses.¹¹ In light of the particularly great burden of conducting a technical analysis of the proposed service areas and incumbent licensees, Mobex respectfully submits that the auction should be extended.

II. Financial Analysis

Although the auction date is currently proposed for September 15, 2004, preliminary procedures, such as up-front payments and Form FCC 175 filings significantly shorten the period for bidders to conduct due diligence and decide which licenses to bid upon and, more significantly, for which to deposit upfront payments. Primary among the pre-auction deadlines is the upfront payment deadline. Should the Bureau decide to conduct the auction without an extension of time, the upfront payment deadline will likely fall near the end of August 2004. The August 2004 deadline, coupled with the uncertainty surrounding heavily encumbered spectrum and the pendency of the service rules, unduly burdens bidders with the difficult task of committing funds toward upfront payments on unpredictable spectrum. Additional time should be permitted to allow potential bidders to evaluate fully the technical restrictions on the spectrum prior to committing financing. At a minimum, Mobex respectfully submits that the auction date should be extended just four (4) months to accommodate the financial commitment, which is required from all potential bidders in the auction.

III. Pending Litigation

Mobex also notes that bidders may be uncertain about their participation in this auction if it is conducted simultaneously with the Office of General Counsel's prosecution of new service rules in a case currently at bar in the U.S. Court of Appeals. Bidder hesitation arising from uncertain operating parameters will undoubtedly inhibit the maximum marginal utility from

¹¹ See footnote 6 for the technical analysis required for each of the numerous sites.

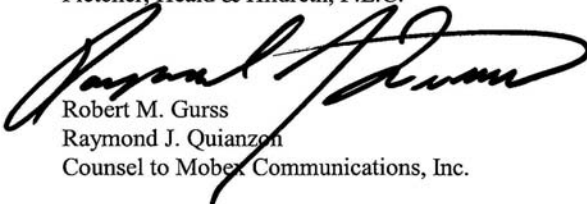
being achieved during an auction process and create a phantom limited maximum efficiency for the spectrum. In the instance of the AMTS spectrum, bidders could be hindered - - and the auction process flawed - - by the absence of full information upon which to value the subject spectrum. Bidding on the spectrum prior to the service rules becoming final, could improperly skew the auction results downward and artificially restrict the optimal public benefit obtained through the auction process. Mobex respectfully submits that Auction No. 57 should be delayed four months while the service rules for the subject spectrum remain under review by the D.C. Circuit.

IV. Conclusion

Therefore, having shown that there remains uncertainty surrounding the AMTS service rules and extensive technical analysis is required as a result of dense incumbency in the spectrum, Mobex respectfully submits that the beginning date for Auction No. 57 should be extended by just four months.

April 23, 2004

Respectfully submitted,
Fletcher, Heald & Hildreth, P.L.C.



Robert M. Gurss
Raymond J. Quianson
Counsel to Mobex Communications, Inc.

Eleventh Floor
1300 North Seventeenth Street
Arlington, Virginia 22209

Following obtained from: <http://www.ntia.doc.gov/ntiahome/occ/manreimb/mobex.html>

[Underlining with Bolding in below added for emphasis]

Before the

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Washington, D.C. 20230

| | | |
|---|---|------------------------------|
| In the Matter of |) | |
| |) | |
| Mandatory Reimbursement Rules |) | Docket No. 001206341-0341-01 |
| for Frequency Band or Geographic Relocation |) | |
| of Federal Spectrum-Dependent Systems |) | RIN 0660-AA14 |

COMMENTS

Mobex Communications, Inc. (Mobex), by its attorneys, hereby files in Comments in response to the Administration's Notice of Proposed Rulemaking (NPRM) in the above-captioned matter. In support of its position, Mobex shows the following.

Acting by its subsidiary, Regionet Wireless License, LLC (Regionet), Mobex operates Automated Maritime Telecommunications Systems (AMTS) in the 216-220 MHz band, serving the maritime and land mobile public across the United States. Accordingly, Mobex is vitally interested in the Administration's proposals concerning the future use of the 216-220 MHz frequency band.

Regionet is authorized to provide AMTS service to the Atlantic Coast from the State of Maine to Florida and around the Florida peninsula to Tampa, as well as to Puerto Rico. Regionet serves the Pacific Coast from the Washington to California. Regionet is also authorized to provide AMTS service to four of the five Great Lakes and to the Erie Canal. Inland, Regionet provides AMTS service to the Mississippi River System, the Gulf Coast, and the Gulf Intracoastal Waterway. As the leading operator of AMTS systems, the parent of Regionet, Mobex is well positioned to inform and advise the Administration in the above captioned matter.

Mobex has four concerns in the instant matter. The first two concerns involve the speed of spectrum reallocation, the third concern involves the cost of relocation and reclamation to the non-Federal user, and the fourth concern is the treatment of classified and sensitive Federal operations.

The Federal Communications Commission has defined its policy objectives for assignment of licenses. The Commission has stated that "first, we seek to establish a flexible regulatory framework that will (1) provide opportunities for continued development of competitive new services, (2) expedite market entry through streamlined licensing procedures, (3) promote technical innovation, and (4) eliminate unnecessary regulatory burdens," Maritime Communications, ____ FCC Rcd. ____ at para. 3 (FCC 00-370 Released November 16, 2000); Multiple Address Systems, 15 FCC Rcd. 11956, 11957 (1999). In adopting

its policies, the Administration should work in concert with the Commission to facilitate the success of the Commission's policies.

Relocation May Not Be Necessary

The NPRM seems to assume that all Federal agencies using the subject spectrum will desire to relocate to different spectrum, however, some agencies may have no intention to relocate or there may be no suitable alternative spectrum for their operations. To expedite the reallocation of each frequency band, the Administration should first ascertain whether each Federal agency has any intention of relocating, and if the agency using a certain band has no interest in relocating, the Administration should promptly notify so the Commission to allow the Commission to proceed directly to the licensing of non-Federal users. If the Administration first simply asks whether an agency intends to relocate, it may be able to save a substantial amount of time in the licensing process and save some agencies a substantial amount of unnecessary planning effort.

As an AMTS operator, Mobex operates on a secondary basis to the United States Navy's SPASUR system which operates in the band 216.880 MHz to 217.080 MHz. In more than 15 years of AMTS operation, Mobex has encountered no difficulty in sharing use of the band with the SPASUR system and does not anticipate any difficulty in the event that it obtains additional AMTS licenses. Because of the surveillance nature of the SPASUR system, there may be no other spectrum which would be suitable for the SPASUR purpose. If the Navy has no intention of relocating the SPASUR system or concludes that no other spectrum would serve the purpose, then the Navy should so inform the Administration now so that the Administration can sever the 216-220 MHz band from the above captioned proceeding and allow the Commission to proceed promptly to the granting of non-Federal licenses.

The Proposed Time Line Should Be Compressed

The time line suggested by the NPRM seems to be unduly long and would impair the FCC's objective of bringing new, competitive service to the public expeditiously. At paragraph 35, the NPRM suggested that Federal entities be required to provide NTIA with marginal cost information at least 240 days prior to an FCC auction and NTIA would provide that information to the FCC at least 180 days prior to an auction.⁽¹⁾

In view of all of the periods required for notice and comment preparatory to an FCC auction and the time which must be provided for potential bidders to consider all relevant matters, the Administration's proposal could prevent an auction from occurring for as much as two years from the present time. Such a result would unreasonably frustrate the FCC's objectives and the objectives of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (the Act). Since all Federal agencies can be deemed to have notice of the Administration's proposals now, they should be planning now, and NTIA should require the submission of the agencies' marginal cost data 30 days after the effective date of the NTIA order in the above captioned matter. NTIA should then provide that cost information to the FCC within 15 days after receiving it.

Both a Relocation Cost Cap and a Reclamation Cost Cap are Needed

Pursuant to the Act, NTIA has proposed to establish a Relocation Cost Cap, beyond which a non-Federal licensee would not be required to compensate a Federal user for frequency relocation. While Mobex certainly supports the establishment of a Relocation Cap, the NPRM did not discuss the obvious need for a cap on the costs to be imposed on a non-Federal user in the event that the Federal user desires to reclaim the original spectrum. If competitive bidding is to meet the financial objectives of Congress, then it is necessary for the Administration to provide not only a Relocation Cap, but a Reclamation Cap, as well. To determine whether to participate in competitive bidding and to establish a bidding strategy, a person desiring to bid competitively for a license needs to know all of the costs which the Federal Government may subject it before filing its auction application. Therefore, the Administration should require Federal agencies to ascertain the maximum amount of compensation which they might demand for reclamation of spectrum and the NTIA should inform the Commission of the cap on those potential costs.

Further with respect to reclamation, the Administration should require a Federal agency at the conclusion of negotiations with the non-Federal licensee to certify that the spectrum to which it intends to move will meet its needs. Thereafter, the Federal agency desiring to reclaim spectrum should have to meet a heavy burden to demonstrate that changed circumstances have overtaken its certification.

Mobex Supports the Proposed Treatment of Classified and Sensitive Assignments

Mobex supports the Administration's proposed method of dealing with Classified and Sensitive Government assignments. The proposed method would provide the Government with the necessary security, while providing the non-Government licensee with sufficient information to conduct its business in a reasonable manner.

Conclusion

For all the foregoing reasons, Mobex respectfully requests that the Administration take actions consistent with Mobex's suggestions herein.

Respectfully submitted,

MOBEX COMMUNICATIONS, INC.

Dennis C. Brown

126/B North Bedford Street
Arlington, Virginia 22201
703/525-9630

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | | |
|--|---|--------------------|
| In the Matter of |) | |
| |) | |
| MOBEX NETWORK SERVICES, LLC |) | |
| |) | File No. 002197542 |
| Application for Consent to Assign Licenses for |) | |
| Automated Maritime Telecommunications |) | |
| Systems |) | |

To: Marlene H. Dortch, Secretary
Attention: Chief, Wireless Telecommunications Bureau

OPPOSITION TO PETITION FOR RECONSIDERATION

Mobex Network Services, LLC (Mobex), by its attorneys, hereby files its Opposition to the petition for reconsideration filed in the above captioned matter by Warren C. Havens, Telesaurus-VPC, LLC (Telus); ATMS Consortium, LLC (AMTSC); Intelligent Transportation & Monitoring Wireless, LLC (ITL); and Telesaurus Holdings GB, LLC (TelGB) (collectively, Havens). In support of its position, Mobex shows the following.

ITL did not demonstrate standing to file a petition to deny Mobex's application. The Commission's Universal Licensing System does not appear to have any record of any license held by ITL and Havens did not claim that ITL holds any license. A mere applicant for a license does not have standing to file a petition to deny, *see, e.g., Commco Technology, LLC*, 17 FCC Rcd 5788 (WTB 2002). Havens did not show why it was not possible for Telus, AMTSC, or TelGB not to have participated earlier in the proceeding or why they should now be permitted to participate. ITL has no greater claim of standing to file a petition for reconsideration because it cannot show that it was adversely affected by the Commission's decision. Therefore, the

Commission should dismiss Havens' petition as to participation by ITL, Telus, AMTSC, and TelGB in the above captioned matter.

Havens did not demonstrate how he would be adversely affected by grant of consent for Mobex to assign its station licenses to a different entity. Havens' situation will not be changed by grant of Mobex's instant application. Havens will still be competing against exactly the same stations, only under new ownership. Havens will just not have Mobex to kick around any longer.

Havens charged that the Commission staff was "not impartial and objective in the Order [for which he requested reconsideration], including due to having made extensive past errors," Havens petition at 3. If, based on his analysis of alleged extensive past errors, Havens believed that the Commission staff was biased and could not decide the instant matter fairly, he should have filed a timely request that the allegedly biased staff members recuse themselves. He did not. Since his claim of bias would have been based on alleged errors prior to the Order for which he now seeks review, his protest of bias is now clearly untimely and unworthy of consideration.

Not only was Havens unhappy with the Commission staff, he even frivolously challenged the constitutionality of the Commission's existence and the constitutionality of the public interest standard. The constitutionality of the Commission (which is not an Executive agency) and the constitutionality of the public interest standard are well settled, having been decided in National Broadcasting Co. v. FCC, 319 U.S. 190 (1943).

The Commission has stated that a pleading may be deemed to be frivolous if there is no good ground to support it and has stated that a frivolous complaint is one which is based on arguments that have been specifically rejected by the Commission or which have no plausible basis for relief, see, Commission Taking Tough Measures Against Frivolous Pleadings, 11 FCC Rcd 3030 (1996). Havens' claim that the Commission and the public interest standard are unconstitutional is just such a frivolous argument. Havens' petition for reconsideration is his latest in a long string of frivolous filings. On November 7, 2005, Mobex filed with the Commission its Request for Relief from Frivolous Filings by Havens. (A copy of Mobex's Request is attached hereto for the Commission's convenience.) Mobex has not received service of a copy of any opposition by Havens to Mobex's Request. Accordingly, Mobex respectfully requests that the Commission act immediately on its Request to bring permanent relief to both Mobex and the Commission.

Mobex flatly and emphatically denies Havens' reckless allegations at his page 3 that Mobex has engaged in unlawful conspiracy, fraud on the Commission, license warehousing, trafficking, laundering, auction rigging, anti-trust violations, "and other violations of Federal and state law including criminal statutes". Neither has Mobex engaged in false renewals (whatever that may be), lack of candor, misrepresentation, or false activation notices. Havens presented nothing new on these claims in his petition for reconsideration that he had not presented earlier.

Havens attempted to incorporate earlier pleadings, without doing the Commission or Mobex the courtesy of even attaching copies of the material, much less, pointing with any

specificity to any part of that material. Mobex was not a party to Havens' controversy with Maritime Communications/Land Mobile, LLC. Havens did not demonstrate the relevance of any of the material which he sought to incorporate. Mobex trusts that the Commission will dismiss Havens' attempt to conflate the above captioned proceeding with other matters. In an abundance of caution, Mobex reiterates herein by reference its responses to the filings which Havens noted.

Havens claimed that Mobex's Form 602 is not correct. Mobex will file a corrected Form 602 promptly. Havens did not show that he was harmed in any way by Mobex's Form 602. Since Mobex will no longer be licensee of the stations, Mobex believes that its Form 602 is hardly of significance to anyone at this point.

Maritime Communications/Land Mobile, LLC (MC/LM) has stated under penalty of perjury that "at all times from the filing of MC/LM's Form 175 application to the date of the filing of the instant Opposition, Sandra M. DePriest has held one hundred percent control of MC/LM," Opposition to petition to deny in File No. 0002303355, filed by MC/LM on November 18, 2005, at page 2. Havens showed nothing to controvert MC/LM's declaration.

All of the information which Havens attached concerning lease controversies between Mobex and Day Management Corporation and between Mobex and SRI Michigan Avenue Venture, LLC was publicly available to Havens prior to the filing of his petition to deny in the above captioned matter. The latest date shown in each proceeding predated the filing of Havens' petition to deny. Havens presented no reason why he could not have, by exercise of ordinary

diligence, obtained that information in time to include it in his petition to deny. A party cannot lay back, hoping for a favorable decision and exercise diligence and bring forth additional material which he could have presented earlier only after the decision has gone against him, see, Beehive Telephone Company v. FCC, 180 F.3d (D.C. Cir. 1999); overruled on other grounds, Entravision Holdings, LLC v. FCC, 202 F.3d 311 (D.C. Cir. 2000).

Day Wireless is a local radio dealer that was allegedly offering service to the general public on the MCLM AMTS site-based licenses.

Havens simply does not have the facts straight. Mobex did not lose control of any station as a result of the Day lease controversy and did not discontinue operating its Pacific Coast stations. To the contrary, Mobex and Day settled their dispute and remain on friendly terms today. Mobex has not removed its equipment from the John Hancock Building. Mobex experienced interference at the John Hancock Building and established a site at Sears Tower to provide better service to the public. Mobex did not relocate its equipment from the John Hancock Building to Sears Tower, but instead ordered separate equipment and installed a new site at Sears Tower. Mobex has not only operated a fill-in station at Sears Tower, but Mobex also operates fill-ins to station KPB531 at Lake Zurich, Aurora, and Joliet, Illinois. In the Chicagoland area alone, Mobex provides service to numerous customers, including over 150 para-transit vehicles, approximately 50 waste removal trucks, and several fleets of taxicabs. In contrast, Mobex believes that Havens has yet to provide AMTS service to a single end user anywhere in the country.

In Chicago alone, Mobex stated it was providing service to many customers including para-transit, dump trucks, cabs, etc.

Havens tried once again to raise complaints which have been considered and rejected by the Commission. Havens' allegations concerning the construction of Mobex stations and Mobex

qualifications were all rejected in Mobex Network Services, LLC, 19 FCC Rcd 24939 (WTB 2004). Therein, the Commission found that Mobex was qualified to transfer control of its stations to a new person. Havens did not show that anything had changed since that time to raise a question of Mobex's qualifications such that Mobex should not be able to assign its licenses to a new person.

In the decision for which Havens requests consideration, the Commission staff said that Havens had presented nothing new, Order in Mobex Network Services, LLC, DA 05-2947 at para. 2 (WTB Released November 9, 2005). He has done it again. Havens presented nothing new concerning the construction and operation of Mobex stations; he only said it all again, at greater length.

The Commission is free to arrange the sequence of its actions in the manner most suited to the expeditious disposition of the Commission's business. Havens did not show that he was prejudiced by the Commission's decision to act in the above captioned matter before disposing of his petition for reconsideration in a different matter.


There is no reason for the Commission to delay acting in the above captioned matter. Although Havens suggested that the matter should be held in abeyance pending some imagined "Related Litigation", Mobex is not a party to any trial court litigation against Havens. Havens did file a legal action against Mobex once upon a time, but he voluntarily dismissed it without

action by the court. The Commission need not wait around for Havens to find some new and transparent way to harass Mobex.

Conclusion

For all the foregoing reasons, Mobex respectfully requests that the Commission dismiss or deny Havens' petition for reconsideration.

Respectfully submitted,
MOBEX NETWORK SERVICES, LLC



Dennis C. Brown

8124 Cooke Court, Suite 201
Manassas, Virginia 20109-7406
703/365-9436

Dated: December 22, 2005

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

WARREN C. HAVENS

)
)
)

File No.

RECEIVED

NOV - 7 2005

Federal Communications Commission
Office of Secretary

To: Office of the Secretary
Attention: The Commission

COPY

REQUEST FOR RELIEF FROM FRIVOLOUS FILINGS

Mobex Network Services, LLC (Mobex), by its attorneys, pursuant to Section 1.41 of the Commission's Rules, 47 C.F.R. §1.41, respectfully requests that the Commission take effective action to prevent Warren C. Havens (Havens) from filing further frivolous pleadings with the Commission. In support of its request, Mobex shows the following.

Mobex and Havens are licensees in the Automated Maritime Telecommunications Service. For more than five years, Mobex has been the target of a steady string of frivolous filings by Havens. Havens' wilful and repeated abuse of the Commission's processes has placed an unreasonable burden on the Commission and caused Mobex to expend thousands of dollars to defend against Havens' frivolous filings. Regardless of whether the Commission or Mobex carries the initial burden, Havens has imposed an unreasonable burden on the public, either as taxpayers or as subscribers to Mobex service.

Havens most recent abuse occurred in the matter of Mobex's application for renewal of certain licenses, File Nos. 0001082495-0001082548, in which Havens not only violated the

Commission's rules by filing both a petition for reconsideration and an application for review but by filing an untimely amendment to his application for review. The Commission had twice cautioned Havens that he could not pursue both courses of appeal and had cautioned him that extensions of time to file would not be routinely granted.¹ Havens' reckless disregard of the Commission's rules of practice and procedure, combined with his wilful and repeated practice of filing untimely amendments to pleadings, doubles, at the least, the work load on the Commission's scarce resources and imposes more than double litigation costs on Mobex.

It would appear that on an average of once per month, Havens is compelled to attack Mobex. Exhibit I hereto is a sample list of more than 70 filings which Havens has made with the Commission against Mobex.² In a reply to Mobex's opposition to a Havens petition for reconsideration filed on February 22, 2005 (referenced in Exhibit I hereto), reiterated in multiple amendments, Havens descended to filing scandalous material against Mobex. Mobex is unable to explain any basis for Havens' vendetta against it, but the Commission should act now to stop nuisance filings by Havens because they constitute a clear abuse of the Commission's processes and impose undue burdens on Mobex and on the Commission to respond. Those burdens necessarily pass to the public and, thereby, impair the public interest.

¹ Regionet Wireless License, LLC (FCC 02-288 Released October 25, 2002) and Regionet Wireless License, LLC (FCC 02-289 Released October 25, 2002)

² Mobex would be pleased to provide the Commission with a copy of any the referenced Havens filings, upon request, but will not burden the instant filing with copies.

Havens well knows that the Commission has placed parties on notice of the "Commission Taking Tough Measures Against Frivolous Pleadings", 11 FCC Rcd 3030 (1996) (Tough Measures); he has cited to the Commission's Public Notice in his own pleadings. Yet, Havens has continued to file pleadings which fly in the face of the Commission's Rules, even as the Commission has explained those rules directly to Havens.

The Commission has demonstrated that it can and will rein in parties who show a pattern of abusing the Commission's advocacy processes. In Alexander Broadcasting Co., 13 FCC Rcd. 10355 (1998), the Mass Media Bureau imposed on Vincent L. Hoffart, Sr. a requirement that

any future motion, pleading, or other document submitted by Hoffart to the Commission or to any member of the staff shall have a cover page attached to it clearly labeled "Request for Permission to File." The request shall include the following statement: "Pursuant to previous findings by the FCC that Vincent L. Hoffart, Sr., has abused Commission processes, and requiring Hoffart to request permission of the Mass Media Bureau to file further documents, Hoffart submits this request." The Mass Media Bureau, in considering these requests, will be guided by . . . whether Hoffart has established that the filings concern legitimate substantive public interest matters relevant to the application proceedings in which they are filed. **We will deny permission to file abusive documents such as those that are primarily frivolous, repetitive, irrelevant, obstructive, or that appear designed to cause harm in furtherance of a private interest.** Failure to request permission to file will be deemed good and sufficient grounds for the Bureau to summarily deny Hoffart's document,

id. at 10356 (emphasis added).

It is well settled that a government agency may place restrictions on participation to prevent abuse of its processes, Radio Carrollton, et al., 69 FCC 2d 1138, 1148-55 (1978).

The Commission need not allow the administrative processes to be obstructed or overwhelmed

considering challenges to pending applications, "the Commission need [not] allow the administrative processes to be obstructed or overwhelmed by captious or purely obstructive protests." The Commission has authorized its Bureaus and Offices to impose sanctions upon participants whose primary purpose is to abuse the Commission's processes. Given the Commission's goal of encouraging participation in FCC proceedings, however, it only considers the possibility of such sanctions in egregious cases where the abusive nature of the pleadings is clear. In this regard, a pleading filed primarily to harass an applicant rather than to air legitimate, substantive objections relevant to the proceeding in which they are filed, is a situation that would justify a summary dismissal of such pleading. Alternatively, should a party engage in such an abusive course of conduct before the agency, the Commission may decide to require the party to obtain the Commission's prior permission to file documents based on a prior showing of public interest,

id. at para. 8 (footnotes omitted).

Section 1.24 of the Commission's Rules provides, in relevant part, that

(a) The Commission may censure, suspend, or disbar any person who has practiced, is practicing or holding himself out as entitled to practice before it if it finds that such person:

(3) Is lacking in character or professional integrity; and/or

(4) Displays toward the Commission or any of its hearing officers conduct which, if displayed toward any court of the United States or any of its Territories or the District of Columbia, would be cause for censure, suspension, or disbarment,

47 C.F.R. §1.24. Havens has attacked Mobex at every opportunity, often without regard to the Commission's rules of practice and procedure, as if he were immune to the rules because he acted as his own attorney.

Mobex deserves finality on decisions which are rendered by the FCC. Mobex should not be subject to Havens' continual harassment based on his repetition of claims and arguments previously denied by the FCC. It is time, no, well past time for the Commission to act to protect its administrative processes. Mobex has requested the Commission's consent

considering challenges to pending applications, "the Commission need [not] allow the administrative processes to be obstructed or overwhelmed by captious or purely obstructive protests." The Commission has authorized its Bureaus and Offices to impose sanctions upon participants whose primary purpose is to abuse the Commission's processes. Given the Commission's goal of encouraging participation in FCC proceedings, however, it only considers the possibility of such sanctions in egregious cases where the abusive nature of the pleadings is clear. In this regard, a pleading filed primarily to harass an applicant rather than to air legitimate, substantive objections relevant to the proceeding in which they are filed, is a situation that would justify a summary dismissal of such pleading. Alternatively, should a party engage in such an abusive course of conduct before the agency, the Commission may decide to require the party to obtain the Commission's prior permission to file documents based on a prior showing of public interest,

id. at para. 8 (footnotes omitted).

Section 1.24 of the Commission's Rules provides, in relevant part, that

(a) The Commission may censure, suspend, or disbar any person who has practiced, is practicing or holding himself out as entitled to practice before it if it finds that such person:

(3) Is lacking in character or professional integrity; and/or

(4) Displays toward the Commission or any of its hearing officers conduct which, if displayed toward any court of the United States or any of its Territories or the District of Columbia, would be cause for censure, suspension, or disbarment,

47 C.F.R. §1.24. Havens has attacked Mobex at every opportunity, often without regard to the Commission's rules of practice and procedure, as if he were immune to the rules because he acted as his own attorney.

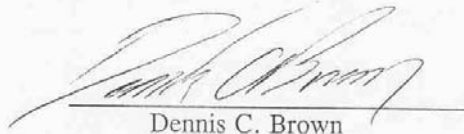
Mobex deserves finality on decisions which are rendered by the FCC. Mobex should not be subject to Havens' continual harassment based on his repetition of claims and arguments previously denied by the FCC. It is time, no, well past time for the Commission to act to protect its administrative processes. Mobex has requested the Commission's consent

to assign its AMTS licenses to Maritime Communications/Land Mobile, LLC (MC/LM). Because it appears from Havens' July and August 2005 filings referenced in Exhibit I hereto that Havens has already transferred his vendetta to MC/LM, Mobex hopes that any relief the Commission grants to Mobex will also apply to the assignee once that transaction is consummated.

Conclusion

For all the foregoing reasons, Mobex respectfully requests that the Commission require Havens to obtain leave of the Commission before filing any new pleading with the Commission which relates to the Automated Maritime Telecommunications Service or to Mobex.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Dennis C. Brown", is written over a horizontal line.

Dennis C. Brown

8124 Cooke Court, Suite 201
Manassas, Virginia 20109-7406
703/365-9436

Dated: November 7, 2005

Sample of Warren C. Havens Filings

EXHIBIT I

1. May 10, 2000 Havens filed a petition to deny 20 Mobex applications, alleging various deficiencies and alleging that Mobex had filed strike applications.
2. July 6, 2000 Havens filed a petition to deny certain Regionet license applications. (Regionet was predecessor in interest to Mobex's AMTS license holdings.)
3. November 9, 2000 Havens filed a petition to deny a Mobex application, alleging that Mobex's application was "insincere and 'strike' in intent, [and] an abuse of process."
4. December 5, 2000 Havens filed a reply to the opposition of Regionet to Havens's petition to deny a Regionet application. Therein, Havens alleged that Regionet had filed "cheap, defective applications and [made] repeated attempts, under oath, to defraud the FCC and disadvantage Havens."
5. December 14, 2000 Havens filed a petition for reconsideration of the grant of certain Regionet applications, against which he had not filed a petition to deny.
6. December 15, 2000 Havens filed a petition for reconsideration of the Wireless Bureau's action dismissing certain of Havens's applications. Therein, Havens contended that certain Regionet applications had not complied with service coverage requirements.
7. December 27, 2000 Havens filed an opposition to Regionet's petition to deny a Havens application. Havens attempted to incorporate therein by reference every filing that he'd ever made against Mobex and alleged that Mobex was "orchestrating and perpetuating frivolous unsubstantial petitions to deny, strike applications, and abuse of process to block Havens from obtaining AMTS licenses and competing against Mobex, and wasting FCC time resulting in delay of upcoming AMTS auctions."
8. January 12, 2001 Havens filed a petition for reconsideration of the Commission's Forth [sic] Report and Order in PR Docket No. 92-257. Therein, he alleged that certain Mobex stations did not meet coverage requirements.

9. February 6, 2001 Havens filed comments in response to the Commission's Third Further Notice of Proposed Rule Making in PR Docket No. 92-257 in which he claimed that the Commission should take back at least one of the two frequency blocks which were granted to Watercom and use the spectrum for something other than AMTS.
10. March 2, 2001 Havens filed an petition for reconsideration in support of some of his applications, File Nos. 852997-853009, in which he alleged that certain AMTS applications filed by Regionet did not comply with the service coverage requirement, but were, nonetheless, granted.
11. March 9, 2001 Havens filed comments in ET Docket 02-221. Therein, Havens suggested that the Commission should reallocate the AMTS spectrum to some different use.
12. May 31, 2001 Havens filed a petition for further reconsideration in support of some of his applications, File Nos. 853010-853014, in which he alleged that certain AMTS applications filed by Regionet did not comply with the service coverage requirement, but were, nonetheless, granted.
13. June 4, 2001 Havens filed a petition for declaratory ruling related to Mobex applications against which he had filed petitions to deny.
14. June 26, 2001 Havens filed an informal request in which he argued that many of Regionet's notifications of station activation contained defects.
15. August 1, 2001 Havens filed a petition for reconsideration of the Commission's grant of Regionet's application for renewal of the license for station WRV374. Havens had not filed a petition to deny Regionet's application.
16. August 27, 2001 Havens filed a reply to Regionet's opposition to his petition for reconsideration of the grant of renewal of the license for station WRV374. in which he alleged a "gross failure" by Regionet to meet coverage requirements.
17. October 9, 2001 Havens filed a petition for reconsideration of the Wireless Bureau's action on his petition for reconsideration which he had filed on December 14, 2000.

18. October 10, 2001 Havens filed a petition amending the petition which he had filed on October 10, 2001.
19. October 30, 2001 Havens filed a reply to Regionet's opposition to his petition dated October 9 & 10, 2002 in which Havens alleged that Regionet had not placed some stations into operation in a timely manner.
20. November 2, 2001 Havens filed an untimely supplement to a petition to deny certain Mobex applications, alleging that Mobex had filed strike applications.
21. November 9, 2001 Havens filed an untimely reply in which he alleged that Regionet had received "excessive favors or mistakes of the FCC."
22. November 13, 2001 Havens filed a petition for further reconsideration in support of some of his applications, File Nos. 852997-853009, in which he alleged that certain AMTS applications filed by Regionet did not comply with the service coverage requirement, but were, nonetheless, granted.
23. November 30, 2001 Havens filed an application for review in support of some of his applications, File Nos. 853010-853014, in which he alleged that Regionet had received favorable licensing treatment.
24. December 3, 2001 Havens filed an application for review of the Wireless Bureau's dismissal of his petition for reconsideration August 1, 2001 concerning the grant of renewal of Regionet's license for station WRV374.
25. December 10, 2001 Havens filed a Freedom of Information Act request seeking information which had been submitted to the Commission in confidence related to AMTS licenses granted to Waterway Communication Systems, Inc., Fred Daniels, Regionet, and Mobex.
26. December 19, 2001 Havens filed a letter with the Enforcement Bureau in which he alleged deficiencies in the construction and operation of certain Regionet stations.
27. December 28, 2001 Havens filed a request for leave to change form of address, relating to a filing which he had made on January 17, 2002. (The December 28, 2001 date on the document is clearly incorrect, because it pre-dates Havens's January 17, 2002 filing to which it relates. Mobex is not certain of the correct date of

- this filing.) Therein, he alleged unequal and unfair treatment of him vis a vis the Commission's treatment of Mobex applications.
28. December 28, 2001 Havens filed a reply to Mobex's opposition to Havens's application for review which Havens filed on January 17, 2002. (Again, the December 28, 2001 date is clearly incorrect, but Mobex is not certain of the correct date of this filing.) Therein, Havens alleged that Regionet had grossly failed to meet the Commission's requirements for construction and coverage.
29. January 4, 2002 Havens filed a petition for declaratory ruling on whether the Wireless Telecommunications Bureau had complied with Section 309 of the Communications Act in dismissing his applications. File Nos. 853010-853014, and 852997-853009. Therein, Havens sought to have the Commission determine certain notices filed by Regionet involved expansions of its stations' service areas. Havens failed to serve a copy of his petition on Regionet.
30. January 17, 2002 Havens filed an application for review of the Wireless Bureau's action on his petition for further reconsideration which he had filed on October 9, 2001. (Havens's document combined an application for review and a petition for reconsideration into a single filing.) Therein, he raised arguments for the proposition that certain Regionet applications, against which he had not filed petitions to deny, had been defective and should not have been granted. On the same day, Havens filed a substantially revised application for review which he denominated as an erratum. On the same day, Havens filed a request for leave to accept his late-filed application for review and erratum.
31. January 24, 2002 Havens filed a petition for declaratory ruling concerning certain of the Commission's Rules as applied to existing Mobex station WRV374. The Commission denied Havens petition with respect to matters involving station WRV374 because those matters were already the subject of a separate Commission proceeding.
32. February 11, 2002 Havens filed his opposition to Mobex's motion to strike a Havens pleading. Therein, Havens alleged that Mobex had filed strike applications.
33. February 17, 2002 Havens filed his reply to Regionet's opposition to his application for review which had been filed on January 17, 2002. Therein Havens alleged that certain Mobex applications, not part of the controversy, were "rife with defects".

34. February 17, 2002 Havens filed his reply to Regionet's opposition to Havens's request for leave to accept the late filing of his January 17, 2002 application for review. Therein, Havens claimed an "astonishing" non-compliance with the Commission's Rules by Mobex.
35. March 2, 2002 Havens filed a supplemental petition for declaratory ruling in which he alleged that there were threshold defects in certain Mobex applications.
36. March 6, 2002 Havens filed a request for the dismissal of two of his applications which the Commission had been found to be mutually exclusive to applications of Mobex so that the Commission could process the Mobex applications. The Mobex applications which Havens desired for the Commission to process were among the 20 applications which Havens had protested on May 10, 2000.
37. March 11, 2002 Havens filed a supplement to petition for declaratory ruling in which he posed 10 questions related to allegations which he had made concerning Mobex applications.
38. March 14, 2002 Havens filed a petition for declaratory ruling sought to have the Wireless Telecommunications Bureau advise him whether certain Mobex actions involved an expansion of Mobex's service area.
39. March 20, 2002 Havens filed reply comments in ET Docket No. 02-08. Therein, he responded to an observation by Mobex in initial comments in that proceeding that, although Havens held licenses in his own name, Havens had stated in comments filed on February 6, 2001 that "the background of myself and my main financial partner in wireless is also briefly detailed." Havens responded by alleging that Mobex's showing was false, misleading, inflammatory, and libelous.
40. March 22, 2002 Havens filed a request for waiver in which he alleged that certain Mobex applications contained threshold facial defects and were strike applications.
41. May 8, 2002 Havens filed a petition for reconsideration of the Commission's Second Memorandum Opinion and Order and Fifth Report and Order in PR Docket No. 92-257 in which he made assorted claims against Mobex and demanded that the Commission take

- back at least one of the two frequency blocks which were granted to Mobex for service to the Mississippi River System.
42. May 13, 2002 Havens subsequently filed a substantially revised petition which he claimed to be an erratum to his petition filed on May 8, 2002.
43. May 30, 2002 Havens filed his reply to Mobex's opposition to his petition for reconsideration dated May 8, 2002 in which he again alleged that Mobex had filed strike applications.
44. June 6, 2002 Havens filed his reply to Mobex's opposition to Haven's petition for reconsideration of the Commission's action on his March 2, 2002 supplemental petition for declaratory ruling in which he alleged threshold defects in certain Mobex applications.
45. August 26, 2002 Havens filed a petition for reconsideration in a rule making proceeding in which he again claimed that the Commission should take back at least one of the two frequency blocks which were granted to Watercom.
46. August 27, 2002 Havens again filed the petition for reconsideration which he had dated for and first filed on May 8, 2002.
47. September 23, 2002 Havens filed an opposition to the petition for reconsideration filed by Mobex in PR Docket 92-257. Therein, Havens claimed that Mobex had not provided "continuity of coverage" and had not met construction requirements.
48. October 3, 2002 Havens filed his reply to Mobex's opposition to Haven's petition for reconsideration in PR Docket No. 92-257. Therein, Havens claimed that some of Mobex's licenses were defective and invalid. Havens attached to his reply the entirety of his September 23, 2002 filing.
49. October 7, 2002 Havens filed an unauthorized supplement to his opposition to Mobex's petition for reconsideration in PR Docket No. 92-257. Therein, Havens alleged that Mobex stations were not integrated and that Mobex did not provide priority of service to marine traffic.
50. October 9, 2002 Havens filed an unauthorized supplement to his reply to opposition to petition for reconsideration in PR Docket No. 92-257. Therein, Havens argued that AMTS spectrum should be set

- aside for public safety use, rather than for extension of AMTS service nationwide.
51. October 16, 2002 Havens filed notices of appeal with the United States Court of Appeals for the District of Columbia Circuit, case nos. 02-1315 and 02-1316, in which he alleged that the Commission had provided unequal treatment as between certain of his applications and competing applications of Mobex.
52. October 23, 2002 Havens filed a response to certain filings by Mobex. Therein, Havens argued that AMTS spectrum should be set aside for public safety use, rather than for extension of AMTS service nationwide.
53. October 31, 2002 Havens filed a petition to deny Mobex's application for modification of the license for station WRV374, alleging that the application was defective.
54. November 23, 2002 Havens filed notices of appeal with the United States Court of Appeals for the District of Columbia Circuit, case nos. 02-1359 and 02-1360, in which he alleged that the Commission had provided unequal treatment as between certain of his applications and competing applications of Mobex.
55. December 13, 2002 Havens filed a petition to deny Mobex's application for renewal of 54 station licenses in which he again claimed that the Commission should take back at least one of the two frequency blocks which were granted to Watercom.
56. December 26, 2002 Havens filed a request for Commission action under Section 208 of the Communications Act in which he claimed that certain Mobex licenses should be revoked for alleged violations of FCC rules.
57. January 8, 2003 Havens filed a reply to Mobex's opposition concerning his December 13, 2002 filing in which he claimed that Mobex and its legal counsel had engaged in a pattern of abuse of Commission processes and rules.
58. July 24, 2003 Havens filed a petition for reconsideration of the Commission's denial of his December 13, 2002 petition to deny renewal of Mobex licenses.

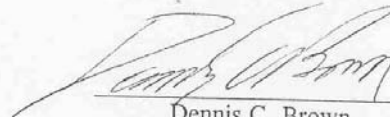
59. November 19, 2003 Havens filed a request for Commission action under 47 C.F.R. §1.41 in which he claimed that certain Mobex licenses should be revoked for alleged violations FCC rules.
60. November 25, 2003 Havens filed a complaint against Mobex under Section 208 of the Communications Act. Therein, he reiterated claims made in his filing of December 26, 2002, which filing had been dismissed by the Commission for violation of certain procedural rules. Havens also requested that the FCC staff "give an account for [its] years of error and oversight which granted inappropriate favors" to Mobex.
61. June 25, 2004 Havens filed a petition for partial reconsideration in which he requested that the Commission, among other things, delay the start of Auction 57 for geographic area licenses.
62. July 2, 2004 Havens filed a request with the Commission to stay the start of Auction 57, pending action on his filing of June 25, 2004. Mobex filed an opposition to Havens request for stay and filed its own request for stay and requests for other relief.
63. July 16, 2004 Havens filed a petition to deny Mobex's application for renewal of one radio station license. Therein, he claimed that Mobex had violated certain Commission rules.
64. September 8, 2004 Havens filed an opposition to Mobex's request for stay of the start of Auction 57 in which he claimed that Mobex's filing was an abuse of process.
65. January 27, 2005 Havens filed a petition for reconsideration of the Commission's grant of authority to transfer control of Mobex to a new entity. Therein, Havens claimed that Mobex had violated certain Commission rules. Havens referenced and incorporated into his petition all of his filings then subject to administrative and court appeals.
66. February 22, 2005 Havens filed a reply to Mobex's opposition to his January 27, 2005 petition in which he claimed that Mobex had committed major fraud on the Commission and had engaged in perjury before the Commission.
67. July 6, 2005 Havens filed a petition to deny Mobex's application for Commission consent to assign its AMTS licenses to Maritime Communications/Land Mobile, LLC (MC/LM). Therein,

- Havens incorporated by reference all of the argument and fact contained in his February 22, 2005 filing, and added to those claims a claim that Mobex had not been candid with the Commission and had engaged in a conspiracy with another licensee to commit fraud on the Commission.
68. August 1, 2005 Havens filed a reply to Mobex's opposition to his July 6, 2005 filing in which he alleged that Mobex had lacked candor and had engaged in misrepresentation and fraud before the Commission in violation of 18 U.S.C. §1001.
69. August 8, 2005 Two entities controlled by Havens filed a request under FCC Rule Section 1.41 in which Havens claimed that MC/LM had not disclosed certain matters to the Commission in MC/LM's application to participate in Auction 61 for AMTS geographic area licenses.
70. October 24, 2005 Havens filed a petition for reconsideration and an application for review of the Bureau's denial of a petition for reconsideration of grant of renewal of certain Mobex licenses.
71. October 25, 2005 Havens filed an untimely amendment to his October 24 application for review.
72. October 25, 2005 Havens filed a second untimely amendment to his October 24 application for review.
73. November 1, 2005 Havens filed a Suggestion that he had timely filed his amendments or, in the alternative, a request for leave for acceptance of his late filing.

CERTIFICATE OF SERVICE

I hereby certify that on this seventh day of November, 2005, I served a copy of the foregoing Request for Relief from Frivolous Filings on the following person by placing a copy in the United States Mail, first-class postage prepaid:

Warren C. Havens
2649 Benvenue Avenue, Suites 2 and 3
Berkeley, California 94704

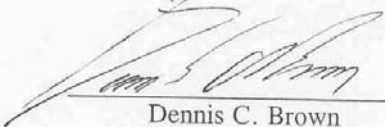


Dennis C. Brown

CERTIFICATE OF SERVICE

I hereby certify that on this twenty-second day of December, 2005, I served a copy of the foregoing Opposition to Petition for Reconsideration on the following person by placing a copy in the United States Mail, first-class postage prepaid:

Warren C. Havens
2649 Benvenue Avenue, Suites 2 and 3
Berkeley, California 94704



Dennis C. Brown

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

FEB 6 2001

In the Matter of

)

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Amendment of the Commission's Rules
Concerning Maritime Communications

)

PR Docket No. 92-257

)

)

Petition for Rule Making filed by
RegioNet Wireless License, LLC

)

RM-9664

)

COMMENTS

MOBEX COMMUNICATIONS, INC.

Dennis C. Brown
126/B North Bedford Street
Arlington, Virginia 22201
703/525-9630

Number of Copies rec'd 019
A B C D E

Dated: February 6, 2001

ORIGINAL

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Summary of the Filing

Mobex Communications, Inc. strongly supports the Commission's AMTS geographic area licensing proposal.

Only one licensing scheme should be adopted for all AMTS spectrum. Revised geographic licensing areas should be adopted.

No AMTS spectrum should be set aside for Public Safety use. Non-conforming uses can be accommodated by disaggregation and partitioning.

The established service area definition should be maintained, but experience with automated systems has demonstrated that the protection ratio proposed by the Commission would be insufficient. Greater protection of incumbent systems is required to assure continued AMTS service to the public.

The Commission's licensing rules should reduce opportunities for obstructive behavior by applicants and others. Technical requirements for geographic based systems should be eliminated or reduced.

An AMTS licensee should be permitted to acquire all AMTS spectrum. The Commission's rules should not limit AMTS spectrum acquisition either by auction or by private agreements.

Competitive bidding rules should provide bidding credits and attribution rules which reflect business realities for small and very small businesses.

Pending mutually exclusive applications should be dismissed or returned. New, competitive AMTS service would be unduly delayed by consideration of such applications.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

| | | |
|-------------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Amendment of the Commission's Rules |) | PR Docket No. 92-257 |
| Concerning Maritime Communications |) | |
| |) | |
| Petition for Rule Making filed by |) | RM-9664 |
| RegioNet Wireless License, LLC |) | |
| To: The Commission | | |

COMMENTS

Mobex Communications, Inc. (Mobex) and its subsidiary, Regionet Wireless License, LLC (Regionet) hereby respectfully submit their Comments in the above captioned matter. In support of its position, Mobex shows the following.

Mobex strongly supports the Commission's proposal to designate licensing regions and authorize one licensee for each currently unassigned Automated Maritime Telecommunications System frequency block on a geographic basis. Mobex also enthusiastically supports the Commission's proposal to permit incumbent AMTS licensees to continue to operate their systems indefinitely, with geographic licensees providing interference protection to incumbents.

I. In Brief

Mobex agrees with the Commission that a geographic assignment plan should be adopted. A smaller number of AMTS geographic areas should be adopted.

Only one licensing scheme should be used for all AMTS spectrum. A variety of schemes would not serve the public interest.

No AMTS spectrum should be reallocated to Public Safety use. The factors which supported allocation of VHF Public Coast channels to Public Safety use are not present in the AMTS band.

Protection of incumbent systems from interference is crucial to the public interest. The established service area definition should be continued, but greater protection of automated systems is required.

The Commission's geographic area licensing rules should reduce opportunities for behavior which unduly obstructs the provision of new competitive service to the public. Technical application requirements should be eliminated or reduced.

A licensee should be permitted to acquire all AMTS spectrum, whether by auction or from other licensees.

Bidding credits should provide real opportunities to small and very small businesses. Adjustments should be made to reflect business realities.

All pending mutually exclusive applications should be returned or dismissed. Any consideration of such applications would unduly delay the provision of new AMTS service.

II. Background

In 2001, Mobex was telling the FCC it was serving maritime and land mobile throughout the U.S.

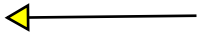
→ Acting by Regionet, Mobex operates AMTS systems in the 216-220 MHz band, serving the maritime and land mobile public across the United States. Accordingly, Mobex is vitally interested in the Commission's proposals concerning the future licensing and operation of AMTS systems.

→ Regionet is authorized to provide AMTS service to the Atlantic Coast from the State of Maine to Florida and around the Florida peninsula to Tampa, as well as to Puerto Rico. Regionet serves the Pacific Coast from the Washington to California. Regionet is also authorized to provide AMTS service to four of the five Great Lakes and to the Erie Canal. Inland, Regionet provides AMTS service to the Mississippi River System, the Gulf Coast, and the Gulf Intracoastal Waterway through its recently merged Waterway Communications Systems, Inc. (WATERCOM) ← operations. In most areas, Regionet operates on frequency Group A, and Regionet operates on both frequency Group A and frequency Group B in some inland areas. As the leading operator of AMTS systems, the successor-interest to WATERCOM, and parent of Regionet, Mobex is well positioned to inform and advise the Commission in the above captioned matter.

III. Comments

A. A Geographic Assignment Plan Should Be Adopted

The Commission is entirely correct that its current rules for authorization of AMTS facilities have unduly restricted the development of AMTS service. Grant of all future AMTS authorizations by geographic areas will expedite abundant use of the scarce spectrum.

The Commission is also correct that its current application procedures have resulted in excessive delays in granting authorizations and have imposed substantial application and litigation costs which can be avoided by the use of geographic licensing. The existing procedures have not met the goal of providing symmetry among competing services and have impaired the provision of truly nationwide AMTS service in competition with other CMRS providers. 

Mobex recognizes that AMTS offers competitive service to other CMRS.

B. Band Manager Licensing Would Not be Appropriate

There is no basis for concluding that the establishment of band manager licensing in the AMTS band would further the public interest in any way. The band manager plan may be appropriate to virgin spectrum on which there is no established service, such as in the 700 MHz band, but establishing a band manager scheme would add only the potential for unproductive diversion from the goal of establishing a nationwide AMTS service.

To the extent that diverse uses of AMTS spectrum may appear to be desirable, those uses can be accommodated by partitioning and disaggregation by licensees. Mobex supports the customary provision of authority for an AMTS licensee to disaggregate spectrum or partition

territory. Both mechanisms help to assure that all spectrum is put to the best possible use for the public.

C. A Smaller Number of Geographic Areas Should be Adopted

While the large number of VHF Public Coast Areas (VPCs) employed by the Commission in the band 156-162 MHz band (the VHF band) was appropriate to that band, a smaller group of AMTS Public Coast Areas (APCA) should be used for AMTS geographic licensing. In the VHF band, the Commission was confronted with a situation in which it had only a small number of channels to offer and many of those channels were already authorized in not only major maritime areas, but in inland rural areas, as well. Further, the VHF spectrum was shared by private land mobile licensees in inland areas. In the AMTS band, however, spectrum is allocated, but the Commission's Rules have essentially prohibited the development of AMTS over much of the nation's territory. To maximize the incentive for licensees to make the highest and best use possible of the spectrum, the Commission should adopt a group of nine APCAs more closely tailored to existing AMTS service areas.

As shown by the map attached as Exhibit I hereto, Mobex recommends that the Commission retain the Atlantic, Pacific, and Great Lakes coastal VPCs of the contiguous United States, namely, VPCs 1, through 7. The Commission should also retain APCA 9, Alaska. The inland VPCs adjacent to the VPCs having coastal exposures should be merged with coastal VPCs. Specifically, VPCs 8, 34, 36, 37, 41, and 42 should be merged with VPC 6 to form the Southern

Pacific APCA.¹ VPCs 30 through 33 should be merged with VPC 7 to form a Northern Pacific APCA.

While the Commission proposed a single inland geographic area, Mobex believes that competitive interest will be greater if the Commission adopts two inland APCAs. VPCs 10 through 18, 22, 24, and 25 should be merged with VPC 4 to form the East Central APCA. VPCs 19, 20, 21, 23, 26 through 29, 35, and 37 through 42 should form the West Central APCA (APCA 8). These alignments will provide both economic relevance to the inland APCAs and improve the potential for active competitive bidding for the service opportunities.

Although there had been a close connection between the VHF Public Coast service, with its requirement for monitoring Channel 16, and the activities of the United States Coast Guard, no such relationship exists for AMTS operators. Therefore, economic realities, rather than the administrative zones of a different agency, should determine the definition of AMTS geographic areas. Existing AMTS operators serve large or lengthy areas and are positioned to expand those operations on a correspondingly large scale. Adoption of a larger number of geographic licensing areas would be likely to complicate and unduly extend competitive bidding, increasing the transaction costs of the Commission and competing bidders with no compensating benefit to the public. Therefore, the Commission should adopt the APCAs suggested herein.

¹ Because of its close maritime economic connection with California, Hawaii should be part of the Southern Pacific APCA.

D. Only One Licensing Scheme Should be Used

There would be nothing to be gained from applying different licensing schemes to the two currently available AMTS frequency Groups. The division of channels or frequency Groups among nationwide, regional, and local geographic areas might have been useful in the 220-222 MHz band, in which there was no established service, but such a scheme would not be useful for AMTS.² Employing different licensing schemes for different AMTS channels would merely complicate the licensing process and obstruct or delay an AMTS licensee's acquiring sufficient spectrum to provide a maximally efficient service to the public. Because of the unique nature of a maritime service, no experience would be gained which could provide guidance for future licensing regulation. Any irregular licensing scheme could severely diminish applicant interest in obtaining licenses by competitive bidding.

E. No Set Aside Should be Made for a Non-Conforming Use

The Commission has recently allocated 24 MHz of UHF spectrum in the 700 MHz band for use by public safety entities. Not only has that spectrum not even begun to be used, but there did not appear to be any basis for the Commission's offhand question as to whether some AMTS spectrum should be reallocated to public safety use. Allocating fewer frequencies for geographic licensing of AMTS would create operational problems for incumbent operators using all currently

² The less than compelling experience of the 220-222 MHz does not support an idea that fractionation of the AMTS spectrum among different licensing schemes would provide the public with any benefit, whatsoever.

allocated channels. If AMTS is to offer a service which can compete with other CMRS operators, AMTS needs all of the spectrum which has been allocated, and more.

The VHF 156-162 Public Coast band is enclosed within the 150-174 MHz land mobile band, therefore, Public Safety agencies could readily use the VHF Public Coast channels in their existing equipment. For Public Safety agencies to use the 216-220 MHz band, however, they would require additional, new equipment, which would not necessarily be interoperable with their existing equipment or with the equipment of related agencies. Therefore, the reasons which supported the allocation of some VHF channels to Public Safety use do not exist to support the diversion of the AMTS spectrum.

F. Incumbent Protection is Crucial to Continued AMTS Service

The Commission's proposed standards for protection of systems from interference are not sufficient and would result in the destruction of AMTS service. Greater protection is clearly required.

1. The Established Service Area Definition Should be Maintained

Both Regionet and its predecessor, WATERCOM, designed their systems, filed their applications, received grants, and commenced their provision of service to the maritime public on the basis of the 17 dBu service area definition provided by Subpart P of the Commission's Part 80 Rules. The 17 dBu service area definition provides continuity of service without the excessive costs which would result from a higher defined signal level. Had the Commission based the

Provide service to the maritime public, not just a restricted entity of that public.

service area of an AMTS station on a higher signal level, then incumbents would have needed more coast stations to provide the required continuity of service.

Were the Commission now to define the service area of an AMTS station by use of a 38 dBu contour, the Commission could disrupt or destroy existing service to the maritime public. Regionet's incumbent stations provide reliable, continuous service at their existing geographic spacings. As shown by the maps of the Gulf Coast attached as Exhibit II hereto, if incumbent stations' contours in some areas were defined at a level higher than 17 dBu, a geographic area licensee could interpose co-channel facilities between incumbent stations and destroy the maritime public's continuous service from incumbents.

Incumbent systems have been designed, authorized and are operating on the basis of a 17 dBu service area signal level. Were the Commission to adopt its proposal for a 38 dBu service area contour, it would have to demonstrate changed circumstances to justify the change in the rules. Since there have been no relevant or material changes in circumstances, the Commission would be unjustified in changing the long established service area signal level definition.

2. Greater Protection of Incumbent Stations is Required

Although the Commission proposed adopting a protection standard which it has applied to the 220-222 MHz band, the only relationship between the 220-222 MHz band and the AMTS band is that they lie between 216 and 222 MHz. The standards which were adopted for use in the

220-222 MHz band would probably prevent incumbent AMTS systems from operating when confronted with geographic based stations.

Because of the narrow channel bandwidths adopted in the 220-222 MHz band, the Commission essentially forced the use of amplitude compandored single sideband operation in that band. While 10 dB of protection may be sufficient in an amplitude modulation situation,³ existing AMTS systems use frequency modulation and suffer different modes of interference from those suffered by AM stations.

The Commission's experience in the 800 and 900 MHz bands has demonstrated that 10 dB of protection is not sufficient for reliable operation of a digitally controlled trunked system, such as an AMTS system. In its original 800 MHz band rules, the Commission adopted a 10 dB protection ratio. The field experience of Motorola, Inc. and others quickly demonstrated that 10 dB was inadequate and that a protection ratio between 14 and 17 dB was required for reliable operation of an FM trunked system. Therefore, the Commission amended its rules to provide a protection ratio of 18 dB between stations.

While the Commission has long used a 12 dB protection ratio for VHF stations, use of that ratio has been premised on conventional, manual operation, and not on trunked, automated

³ The unexciting pace of development in the 220-222 MHz band does not contribute to a conclusion that 10 dB of protection has been sufficient in that band. Because many 220-222 MHz band stations have little or no end user activity, there has not been a meaningful test of the appropriateness of a 10 dB protection ratio in that band.

operation. The traditional use of operators in the VHF Public Coast service accustomed VHF users to certain levels of nuisance interference between co-channel stations, but more modern, automated systems, such as Cellular and PCS, have now elevated customer expectations such that interference between systems is not commercially tolerable.⁴

While protection based on service area and interference contours is of greatest importance to incumbents and presents the greatest challenge to the Commission to select the correct standard, the matter of limiting signal strength at the boundary between geographic area systems also requires some consideration. Clearly, two geographic area licensees will have to coordinate with one another if both are to provide service near the boundaries of their areas. Therefore, the permissible signal level at the boundary between geographic area systems is likely to be a standard which it will not be necessary to enforce. Accordingly, Mobex would have no objection to the proposed +5 dBu boundary level proposed by the Commission.

G. Opportunities for Obstructive Behavior Should be Reduced

Mobex strongly supports the Commission's proposal to modify its rule which currently requires that an AMTS applicant state that, in an urbanized area, its location is the only suitable location. More than any other requirement, that requirement has engendered wasteful litigation

⁴ The VHF protection standard of 12 dB has been sufficient for AMTS thus far primarily because co-channel coastal AMTS operators are not geographically adjacent to one another and because an AMTS operator on, for example, the Atlantic Coast, cannot currently be confronted with a geographically adjacent co-channel operator to its west. Those situations would not continue to exist with geographic licensing. Therefore, there is no basis for believing that a 12 dB protection ratio would be sufficient in an environment of nationwide geographic licensing.

and it should be abolished. Although the Commission proposed to modify the rule, the requirement, in any form, would not be useful in the geographic licensing context. Therefore, the requirement should not be carried forward into the geographic licensing scheme in any form.

The Commission is unclear at paragraphs 39 and 40 of the NPRM as to proposed requirements for an engineering study, broadcaster notification, and the filing of an application for a station which would lie within a certain proximity to a television broadcast station. The NPRM is not clear whether the Commission would require the filing of an application for an AMTS station within a certain proximity to a TV station. If the Commission was proposing to require the filing of such an application, it should not adopt such a requirement. Mobex would have no objection to a requirement for the AMTS licensee to notify a broadcaster, but requiring an application for a specific station in the context of geographic area licensing nationwide would provide an inestimably large increase in Commission's application processing and litigation burden.

Mobex does not agree with the Commission's tentative conclusion that the engineering study requirement should be continued in the context of geographic area licensing. Because the Commission does not intend to require geographic area licensees generally to file applications for specific stations at specific sites, the public interest would not be served by requiring the preparation and filing of an engineering study with respect to any specific site. Mobex acknowledges its obligation to avoid causing interference to television reception on Channels 10 and 13 and to remedy any interference which may occur. The licensee has every interest in

selecting a site and operating parameters which will allow the licensee to provide service from that site indefinitely without causing interference to television reception. The AMTS geographic area licensee's own self interest will be sufficient to allow the Commission to discard the requirement for the preparation of an engineering study and the filing of an application for each station.

H. Service Requirements Should Reflect Inland Realities

Mobex supports the Commission's proposal to modify its service requirement to remove the requirement to serve minor waterways. A geographic area based AMTS licensee should not be required to serve any minor waterway, so long as marine-originated traffic is given priority over other traffic.

Mobex supports the Commission's proposal to require certain a level of service at five or ten year benchmark dates, depending on the presence of major waterways within the area. Consistent with the Commission's providing parity between geographic area SMR licensees and incumbent wide area SMRs, the Commission should provide the same, longer construction periods to incumbent AMTS licensees as it provides to geographic licensees.

I. A Licensee Should be Permitted to Acquire All AMTS Spectrum

The Commission should permit a licensee to acquire all AMTS spectrum which is offered to competitive bidding, and to acquire all AMTS spectrum by assignment of authorization, partitioning, or disaggregation. Such authority will be consistent with its treatment of other spectrum which has recently been awarded by competitive bidding.

Recognize
AMTS is
CMRS and
can compete.

→ In contrast to the vast quantities of spectrum allocated to competing CMRS services, only four megahertz was allocated to AMTS use and, of that, only two megahertz is assignable under the current rules. If AMTS service is to compete effectively against other CMRS services, an operator needs enough spectrum to provide competitive services.

Currently, AMTS operators use three different technical systems. One was specifically developed for AMTS use, but has been surpassed in spectrum efficiency by systems used in other services. Another is an adaptation of a mature land mobile technology. The third technical system is closer to the state of the art, but still, is an adaptation of an existing technology. Mobex desires to use state of the art, maximally spectrum efficient technology, but cannot obtain such technology without adequate spectrum.

Today's highly efficient digital modulation schemes employ wide bandwidths, and spectrum efficiency increases with increasing available bandwidth. Therefore, the first requisite for efficient use of the spectrum is the availability of sufficient spectrum to use an efficient modulation scheme.

Only if a manufacturer of radio equipment sees a large enough market to justify the costs of developing new equipment will new equipment be developed. The ability of an AMTS operator to interest a manufacturer in developing a state of the art product for AMTS use is directly related to the operator's capacity to provide service to a large number of end user units. To provide the necessary incentive for manufacturers to develop state of the art equipment for

AMTS, the Commission should permit an AMTS operator to obtain authorization for all AMTS spectrum.

Not allowing an AMTS operator acquire all AMTS spectrum would have adverse consequences for the public interest. In some areas, Regionet is currently authorized for both frequency Groups A and B. Were Regionet not permitted to compete at auction for both frequency Groups, then the public would be deprived of vigorous competition for one frequency Group. The absence of vigorous competition would likely lead to a speculator's acquiring a geographic area license at a low auction price with the intent not to operate, but rather, to reap a profit, unshared with the public at auction, by selling its license to Regionet. Expansion of AMTS service would thereby be delayed and made more costly, with no corresponding benefit to the public.

In a separate proceeding, the Commission is considering modification of the CMRS spectrum cap. Mobex believes that the spectrum cap provides the only limitation which should be applied to a licensee's acquisition of AMTS spectrum.

J. Technical Flexibility Should be Expanded

AMTS
competes with
CMRS.

→ AMTS systems should be permitted to compete as fully as possible with all other CMRS operators. Therefore, the Commission should adopt its proposal to expand the technical flexibility of AMTS systems to permit the routine transmission of data.

New and exciting services will require innovative and increasingly efficient methods of operation. Therefore, Mobex supports the Commission's proposal permit AMTS licensees to use any form of data emission within their authorized spectrum.

K. Bidding Credits Should be Available to Provide Real Opportunities
To Small and Very Small Businesses

Mobex agrees with the Commission that bidding credits should be provided for small businesses and very small businesses, however, certain adjustments should be to the attribution rules applicable to competitive bidding for AMTS licenses. Specifically, in determining the past three years' revenues, the Commission should permit an applicant to exclude operating revenues from activities which have been discontinued more than one year prior to the filing of the short form application.

During the past three years, Mobex conducted certain revenue generating business activities in which it is either no longer involved or expects no longer to be involved in soon. For example, Mobex operated a group of radio communications equipment service shops which it has recently sold to other persons. Accordingly, Mobex will not receive any revenues from that activity in the current year or in any future year. Also, a Mobex subsidiary has requested consent to the assignment to another operator of 284 SMR licenses in the 800 and 900 MHz bands, see, Public Notice DA 01-08, released January 10, 2001. Were Mobex required to include the revenues from the operation of those lines of business in its revenues for past years, an average would unfairly give the impression that Mobex should not be able to use bidding credits.

While an average of the past three years' gross revenues helps to discourage efforts by auction participants to structure themselves especially to obtain bidding credits, the Commission's rules for determination of gross revenues should not disadvantage a business which has legitimately moved into the position of a small business. Therefore, the Commission should adopt rules for competitive bidding for AMTS licenses to allow an applicant to exclude revenues from discontinued operations.

After a long period of growth, the economy appears to be entering a lull or a decline. Indeed, the auction of AMTS frequencies may be the first to occur during a period of serious economic decline. As the economy declines, it is small business, with its limited access to capital which typically suffers first and longest. The Commission should take the state of the economy into account in structuring its rules and should provide maximum opportunities for truly small businesses to compete for the spectrum which is the lifeblood of telecommunications. To provide adequate opportunities and incentives for small and very small businesses, the Commission should allow an applicant to exclude revenues from discontinued operations from the determination of the past three years' gross revenues.

L. Pending Mutually Exclusive Applications Should be Returned or Dismissed

Persons who have filed applications for new AMTS facilities which are now pending before the Commission had no reason to expect that their applications, if found to be mutually exclusive with applications of other persons, would be subjected to competitive bidding. The Commission no longer has the authority to select among mutually exclusive applications by any

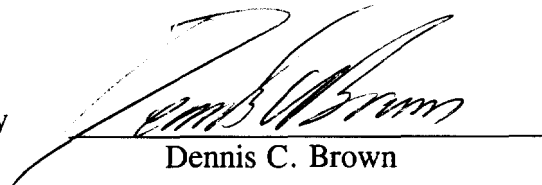
means other than competitive bidding. Therefore, to avoid unfairness to persons who have filed pending applications which are determined to be in a state of mutually exclusivity, and to expedite the grant of geographic area licenses, the Commission, consistent with its disposition of pending applications in similar situations, should return as no longer acceptable for filing, or should dismiss, all pending, mutually exclusive applications prior to conducting competitive bidding for geographic area licenses.

Conclusion

By providing additional opportunities for commercial operations in the AMTS band, the Commission's proposals will attract the necessary investment capital and manufacturing capacity to the AMTS band. Large license areas, flexible use of spectrum, protection of incumbent 17 dBu contours (or 38 dBu contours if the incumbent filed its applications on that basis originally), and the availability of the A and B frequency Groups to bidders will all serve to attract not just licensees, but business opportunities for success. For all the foregoing reasons, Mobex respectfully requests that the Commission amend its Rules as suggested herein.

Respectfully submitted,
MOBEX COMMUNICATIONS, INC.

By



Dennis C. Brown

126/B North Bedford Street
Arlington, Virginia 22201
703/525-9630

Dated: February 6, 2001

AMTS Public Coast Station Areas (APC)

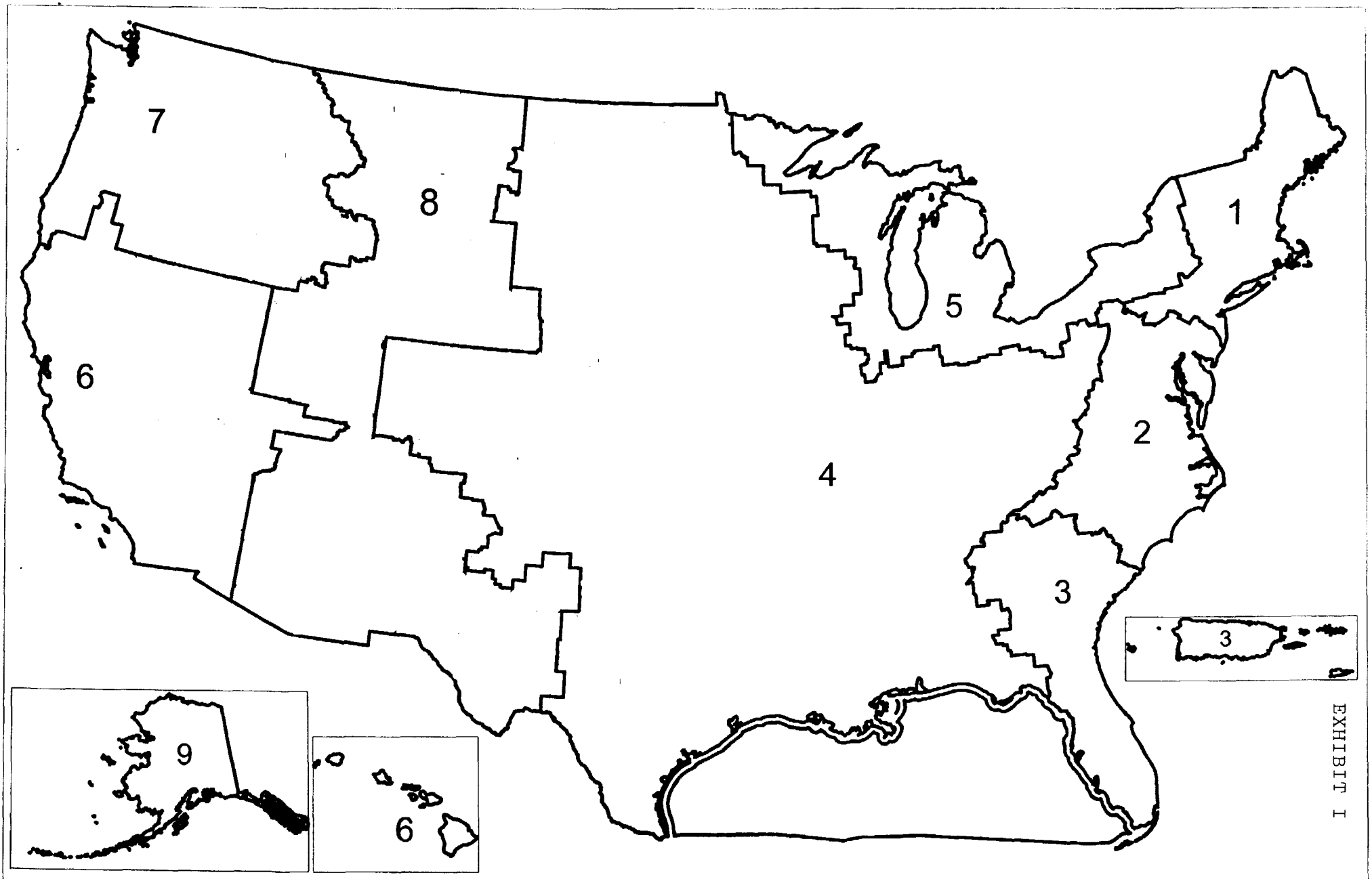


EXHIBIT I

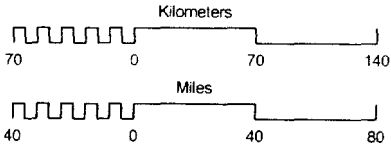
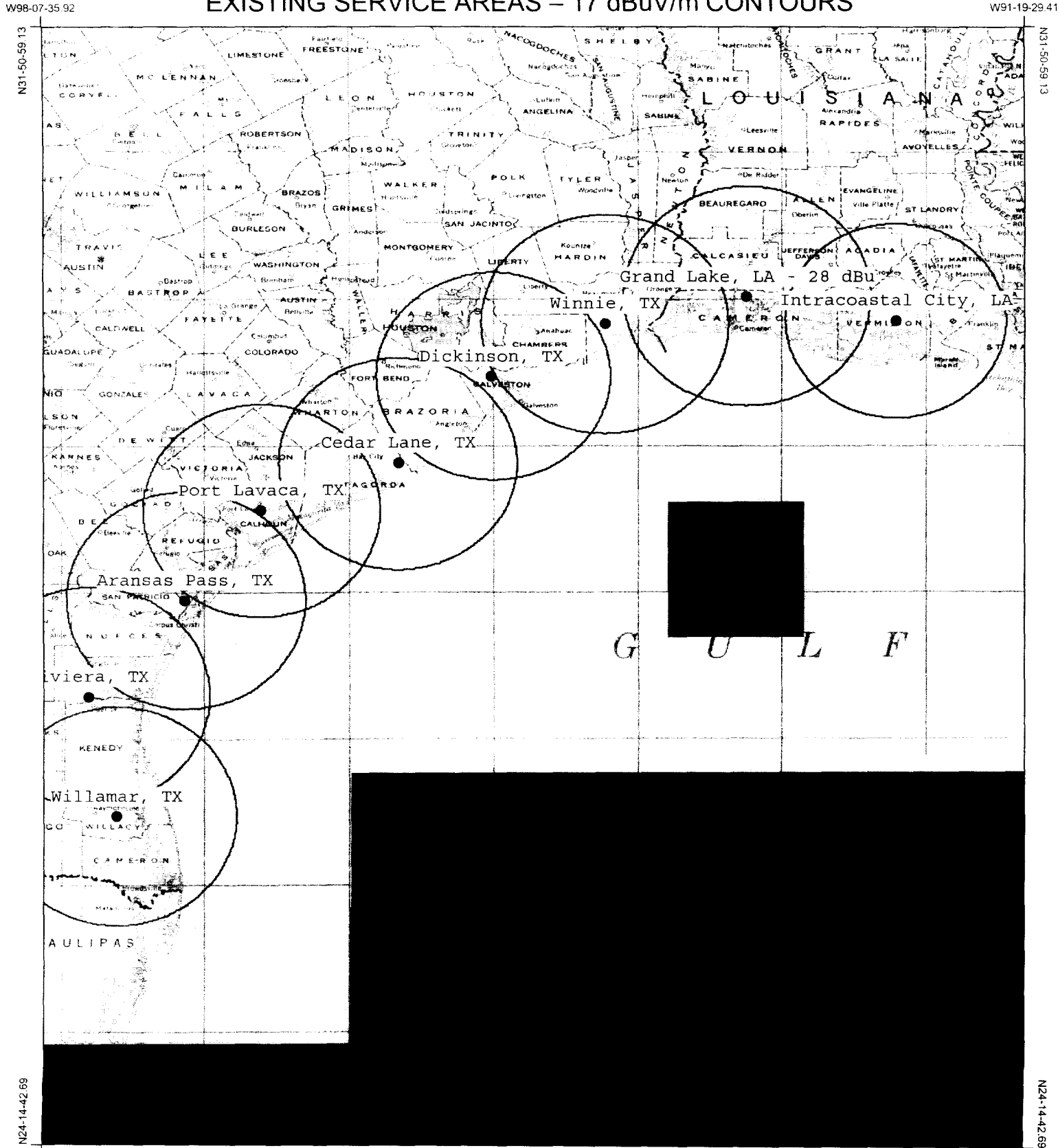
VPC 6 includes BEA 173 Guam and the Northern Mariana Islands and BEA 175 American Samoa
 VPC 4 includes BEA 176 Gulf of Mexico

Exhibits 1-3 Page 56 of 137

Federal Communications Commission
 Wireless Telecommunications Bureau

Stations cover large inland areas and metropolitan centers.

EXISTING SERVICE AREAS – 17 dBuV/m CONTOURS

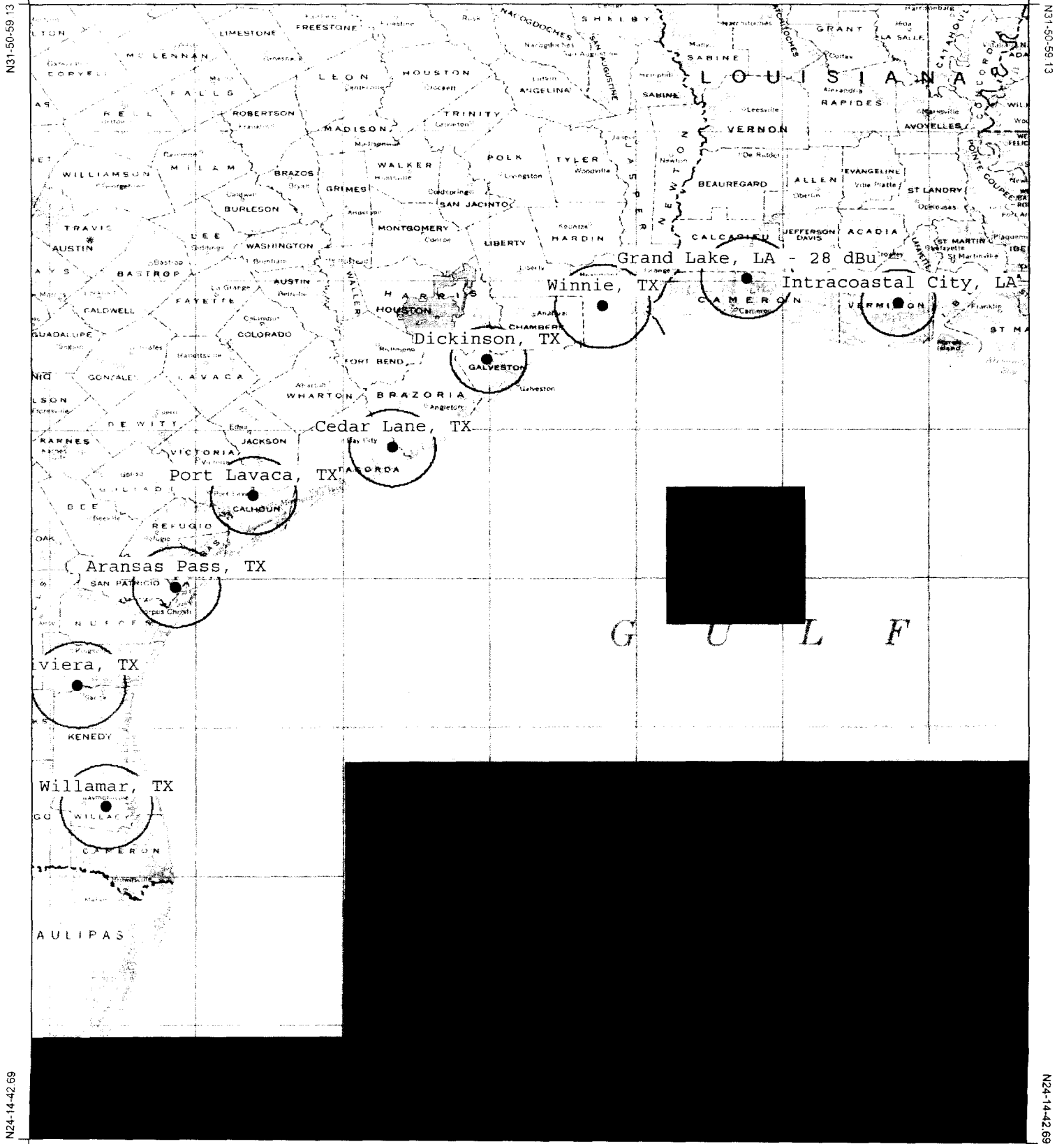


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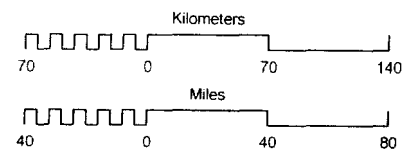
CONTRACTED SERVICE AREAS – 38 dBuV/m CONTOURS

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Map scale: 1:3,900,000
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BEFORE THE

Federal Communications Commission**RECEIVED**

WASHINGTON, D.C. 20554

SEP 15 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

| | | |
|--|---|--|
| In the Matter of |) | PR Docket No. 92-257 |
| |) | RM-7956, 8031, 8352 |
| |) | |
| Amendment to the Commission's Rules |) | Second Further Notice of Proposed |
| Concerning Maritime Communications |) | Rulemaking |

Waterway Communications System, Inc. ("WATERCOM") respectfully submits its Comments in response to the Second Further Notice of Proposed Rulemaking in the Commission's ongoing view and overhaul of the rules governing maritime communications.

I. Statement of Interest

In 1997, Watercom, itself, recognized it is a CMRS operator. It operates along a 4,000-mile corridor that it alleged to include several large metropolitan markets.

→ WATERCOM is a Commercial Mobile Radio Service provider, rendering service to the maritime community along the inland waterway transportation network comprised of the Mississippi, Illinois and Ohio Rivers and the Gulf Intracoastal Waterway via an Automated Maritime Telecommunications System (AMTS) licensed under Part 80 of the Commission's regulations. WATERCOM operates fifty-four (54) coast stations along the 4,000-mile corridor served by its system, with network control and management being provided through its Operations and Control Center (OCC) at Jeffersonville, Indiana.

OH

II. Comments

In the Second Further Notice of Proposed Rulemaking, the Commission raises a number of issues concerning the maritime public correspondence services. These issues focus principally upon the VHF service, but also address the single side band and AMTS services. WATERCOM restricts its comments in response to the Second Further Notice to the AMTS-related issues.

With regard to AMTS stations siting (§ 115), substantially all of WATERCOM's transmitters have required broadcaster notification. WATERCOM has had no adverse experience with regard to causing harmful interference to television reception. Notwithstanding WATERCOM's position during the formation of the rules governing AMTS operations that the television protection criteria were overly broad, the rules have proven to be workable; and the resultant design criteria have successfully protected not only the television viewer community but also the operation of the WATERCOM system. As to developing technical limitations to govern the installation and operation of fill-in stations, WATERCOM does not believe that such an effort is warranted. By definition, a fill-in station should be bounded on at least two sides by the existing contours, and should not significantly extend the system coverage. Accordingly, a fill-in station should not have a material, adverse impact upon television broadcast reception.

With regard to defining the service area of AMTS stations for purposes of affording protection against harmful interference (§ 117(a)), WATERCOM submits that the appropriate

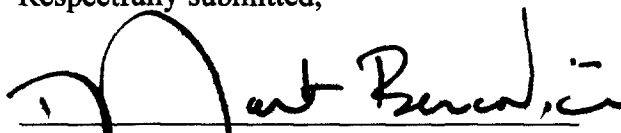
criteria should entail protection of the corridor designed to be served by the automated system, taking into account propagation and the effect of ducting interference experienced over water. Such a standard is important inasmuch as the AMTS is designed to provide continuity of service over a channel or region of maritime operations, and there may be fringe areas within the maritime operating area which should be protected against interference from another, distant AMTS system. Moreover, with the opening of permissible communications to service to land operations, the primary function of serving the maritime industry should be preserved through protection of the AMTS service region. The Commission adopted AMTS service protection standards in Gen. Doc. No. 93-40, and those standards should be applied here, as well.

WATERCOM supports technical flexibility in the AMTS (§§ 118-122). Such technical flexibility enables operators to implement new services and new capacities without being subject to the potential delays of the administrative process for rulemaking and/or licensing.

WHEREFORE, THE PREMISES CONSIDERED, Waterway Communications System, Inc., respectfully urges the Federal Communications Commission to act in response to the Second Further Notice of Proposed Rulemaking in this proceeding in a fashion consistent with the foregoing views.

-4-

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Martin W. Bercofici", written over a horizontal line.

Martin W. Bercofici
Keller and Heckman LLP
1001 G Street, NW, Suite 500 West
Washington, DC 20001
(202) 434-4100

Attorney for Waterway Communications
System, Inc.

September 15, 1997

ORIGINAL

LAW OFFICES

KELLER AND HECKMAN LLP

1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
FACSIMILE (202) 434-4646

—
25 RUE BLANCHE
B-1060 BRUSSELS
TELEPHONE 32(2) 541 05 70
FACSIMILE 32(2) 541 05 80

—
WWW.KHLAW.COM

JOSEPH E. KELLER (1907-1994)
JEROME H. HECKMAN
WILLIAM H. BORGHESANI, JR.
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELDRED
RICHARD J. LEIGHTON
ALFRED S. REGNIERY
DOUGLAS J. BEHR
RAYMOND A. KOWALSKI
JOHN S. RICHARDS
JEAN SAVIGNY
JOHN B. DUBECK
PETER L. DE LA CRUZ
MELVIN S. DROZEN
LAWRENCE P. HALPRIN
RALPH A. SIMMONS
RICHARD F. MANN
C. DOUGLAS JARRETT
SHEILA A. MILLAR
GEORGE G. MISKO
DAVID I. READER

DAVID G. SARVADI
CATHERINE R. NIELSEN
MARK MANSOUR
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JEAN-PHILIPPE MONTFORT
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RACHIDA SEMAIL
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MANESH K. RATH
LYNN LORIS OWENS

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JENNIFER B. BENNETT
CAREN A.C. GRAU
LUTHER L. HAJEK
SHANNON M. HEIM
TRENT M. DOYLE
KATHERINE C. LUCAS
MATTHEW T. FREKKO
MATTHEW M. WRIGHT

*NOT ADMITTED IN D.C.
RESIDENT BRUSSELS

SCIENTIFIC STAFF

DANIEL S. DIXLER, Ph. D.
HOLLY HUTMIRE FOLEY
CHARLES V. BREDER, Ph. D.
ROBERT A. MATHEWS, Ph. D., D.A.B.T.
LESTER BORODINSKY, Ph. D.
THOMAS C. BROWN
MICHAEL T. FLOOD, Ph. D.
ANNA GERGELY, Ph. D.
STEFANIE M. CORBITT
RACHEL F. JOYNER
ELIZABETH A. HEGER
ROBERT J. SCHEUPLEIN, Ph. D.
ANDREW P. JOVANOVICH, Ph. D., MBA
KAREN R. OBENSHAIN, Sc. D., MS
JOSEPH E. PLAMONDON, Ph. D.

TELECOMMUNICATIONS
ENGINEER
RANDALL D. YOUNG
WRITERS DIRECT ACCESS

RECEIVED

April 19, 2001

APR 19 2001

(202) 434-4144

bercovici@khlaw.com

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Twelfth Street Lobby - TW-A325
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

Re: Amendment of the Commission's Rules Concerning Maritime Communications,
PR Docket No. 92-257, Third Further Notice of Proposed Rulemaking; **Report of
Ex Parte Meeting**

Dear Ms. Salas:

On Wednesday, April 18, 2001, representatives of Mobex Communications, Inc. and Regionet Wireless Licensee LLC met with representatives of the Wireless Telecommunications Bureau to discuss the pending Third Further Notice of Proposed Rulemaking in PR Docket No. 92-257.

Participating in the meeting on behalf of the Bureau were Scott Stone, Deputy Chief, Policy and Wireless Branch, Public Safety & Private Wireless Division, Wireless Telecommunications Bureau; Keith Fickner, Policy and Rules Branch, and Ghassan Khalek, Electrical Engineer, Wireless Telecommunications Bureau. Participating on behalf of Mobex/Regionet were John Reardon, John Smith, Paul vanderHeyden, Evelyn Howell, Mary Brooner of Motorola, Randy Young and the undersigned of Keller and Heckman LLP.

Associated herewith, please find the summary of the meeting, including exhibits distributed at the meeting.

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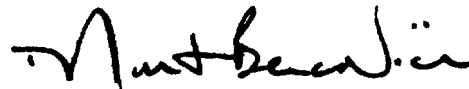
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April 19, 2001
Page 2

KELLER AND HECKMAN LLP

Should there be any questions or requirement for further information, please feel free to communicate with the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Martin W. Bercovici". The signature is fluid and cursive, with a long vertical line extending downwards from the end of the signature.

Martin W. Bercovici

Encl.

cc: Scott Stone (w/encl.)
Keith Fickner (w/encl.)
Ghassan Khalek (w/encl.)

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APR 19 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

MOBEX/REGIONET - FCC

PR DOC. 92-257, EX PARTE MEETING

April 18, 2001

MEETING SUMMARY

I. 17 v. 38 dBu Service Contour for Incumbent Protection

- Reliance by Regionet, WATERCOM and PSI on 17 dBu contour in licensing systems;
- Future protection to 38 dBu will render existing systems non-conforming with continuity of coverage requirement of FCC rules;
- Future protection to 38 dBu will expose existing systems to interference and interruption of service by geographic area licensees who may drop-in between incumbent stations.
 - **Remedy:** Require geographic area licensees to protect incumbents to 17 dBu; while consistency is preferable, application of 38 dBu to new facilities for areas acquired by auction is acceptable.

Exhibits: 17 and 38 dBu contour coverage maps; propagation analysis, 17 v. 38 dBu (Exhibits IA-C).

II. Interference Protection Standard

- 10 db carrier-to-interference ratio appropriate to amplitude modulation signal environment (*e.g.*, 220-222 MHz), but will not provide interference protection for analog or digital modulation.
 - **Remedy:** Need for minimum of 18, rather than 10, db C-to-I ratio.

Exhibit: C-to-I analysis (Exhibit II).

III. Limitation on Bidding to One Frequency Block

In 2001 saying AMTS can compete against other wireless providers and they operate in most major markets.

- • Incumbents present in most major cities (NY, Philly, Bal, Miami, Tampa, LA, SF, Seattle, San Diego, Chi, Minneapolis, Cinn, St. L., Memphis, N.O., Houston) on both frequency blocks;
- • Both applicants and equipment manufacturers need a critical mass of spectrum to justify investment, and for applicants to compete against other wireless service providers.

Maps showing coverage to large areas including metro markets

- **Remedy:** Do not limit bidders to one frequency block.

→ **Exhibit:** Map showing East and West Coast assignments of Regionet (Exhibits IIIA-F).

IV. Coverage Requirements--Major Waterways

- The proposal for coverage requirements with regard to “major waterways” is inappropriate:
 - > Service rules, providing for both maritime and ancillary non-maritime service, must be realistic in terms of imposing coverage requirements consistent with ability of licensees successfully to market services;
 - > Major maritime areas already are served by incumbents, to wit, the East Coast and West Coast population centers, the Mississippi, Illinois and Ohio Rivers and Gulf Intracoastal Waterway (the principal inland waterways freight corridor), and the Great Lakes;
 - > To the extent “major waterways” cross the borders of geographic licensing areas, licensees of such regions potentially could be burdened with coverage requirements for areas which do not present viable service opportunities;
 - > To the extent coverage requirement is defined by waterways, compliance by licensees of geographic licensing areas is unclear in the context of the “white space” areas not already served by incumbents;
 - > Certain identified “major waterways” (Third FNPRM at ¶54, n. 200) are not truly “major” in terms of commercial river traffic, are partially or already served by coastal systems in the high traffic density areas, or otherwise are inappropriately identified:
 - Pacific Ocean below the Arctic Circle - In addition to incumbent West Coast systems in major market areas (*see* attached Exhibits IIIA-C), the coastline of Alaska below the Arctic Circle by itself has approximately 4,000 miles of coastline, and undoubtedly could not justify AMTS service,
 - Missouri, Tennessee and Arkansas Rivers - These rivers are approximately 700, 600 and 400 miles, respectively in length, and have insufficient commercial traffic to support AMTS build-out (*see* Exhibit IV),
 - Red River to Fulton, Arkansas - The reference to the Red River running to Fulton, Arkansas, appears to be in error. Of the two Red Rivers, neither the river flowing north on the Minnesota-North Dakota boundary and into Lake Winnipeg in Manitoba (310 miles) nor the river flowing along Oklahoma-Texas boundary into the Atchafalaya and Mississippi Rivers in Louisiana (1,018 miles) appears on the US Corps of Engineers Inland Freight Tonnage on the Mississippi River

System diagram (Exhibit IV), or otherwise appears to offer sufficient traffic to warrant AMTS coverage,

- Columbia River - The Columbia River already has substantial coverage, from Pacific Northwest coastal stations (see Exhibit IIIA).

- **Remedy:** Apply the population standard as coverage requirement.

Exhibit: Corps of Engineers schematic of inland freight tonnage on the Mississippi River System and the GIWW (Exhibit IV).

V. Talk-Around

- FCC proposal to ban talk-around (NPRM ¶37) inappropriate since AMTS, unlike VHF marine, does not use a standard mobile transceiver, thus reducing opportunity for, and risk of, mis-use.
 - **Remedy:** AMTS licensees can best decide how to accommodate talk-around by subscribers (e.g., common designation of a talk-around channel). Licensee Agreements could be submitted to WTB, and WTB could facilitate resolution of any difference between or among licensees.

WATERCOM WESTERN GULF OF MEXICO SYSTEM 17 dBuV/m CONTOURS

Exhibit I A

W98-07-35.92

W91-19-29.41

N31-50-59.13

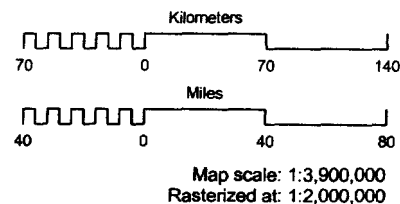
N31-50-59.13

N24-14-42.69

N24-14-42.69

W98-07-35.92

W91-19-29.41

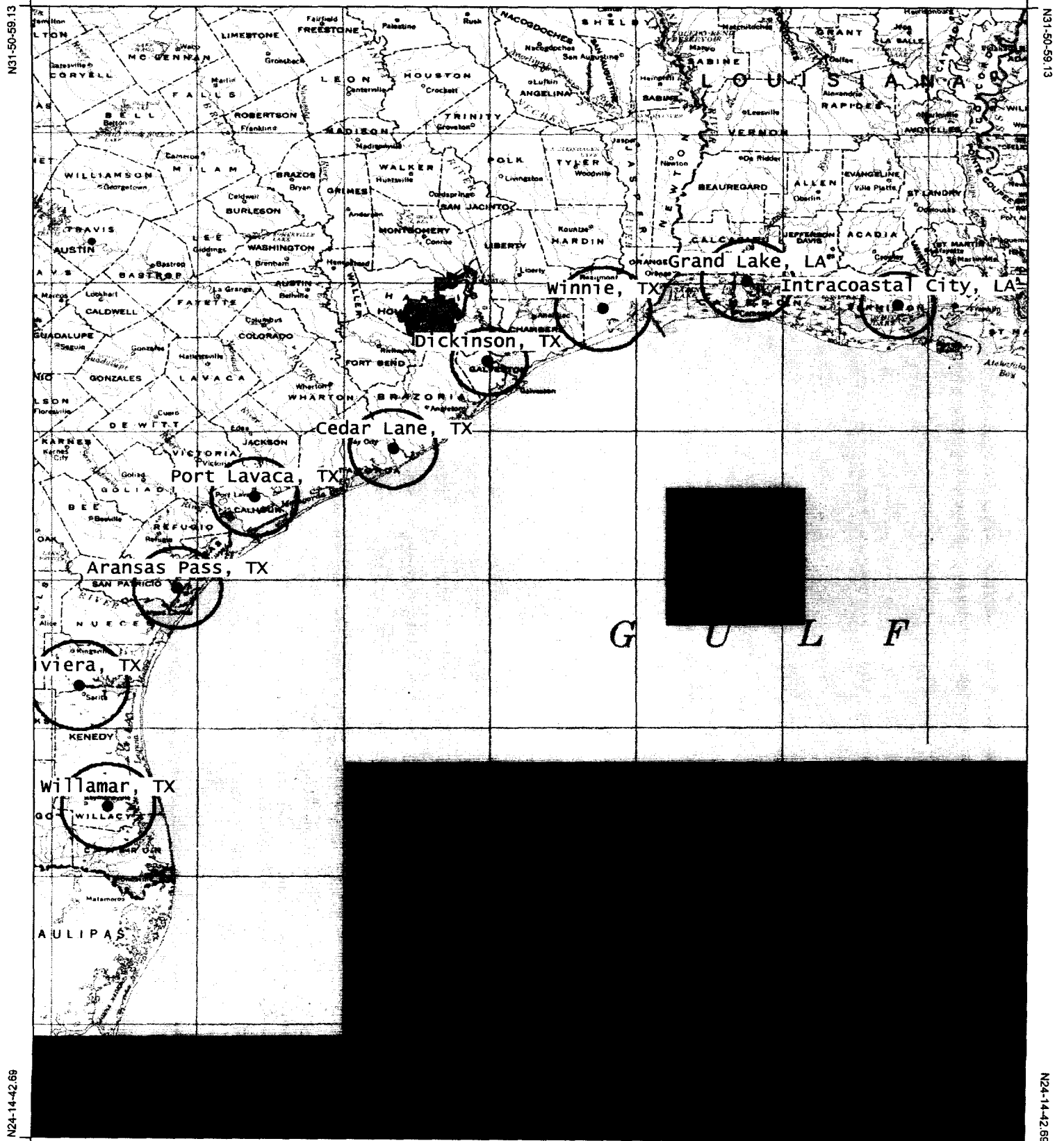


WATERCOM WESTERN GULF OF MEXICO SYSTEM
38 dBuV/m CONTOURS

Exhibit I B

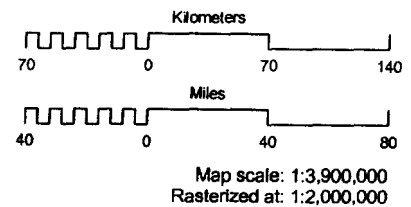
W98-07-35.92

W91-19-29.41



W98-07-35.92

W91-19-29.41



W92-21-39.67

W89-44-40.76

N31-09-39.81

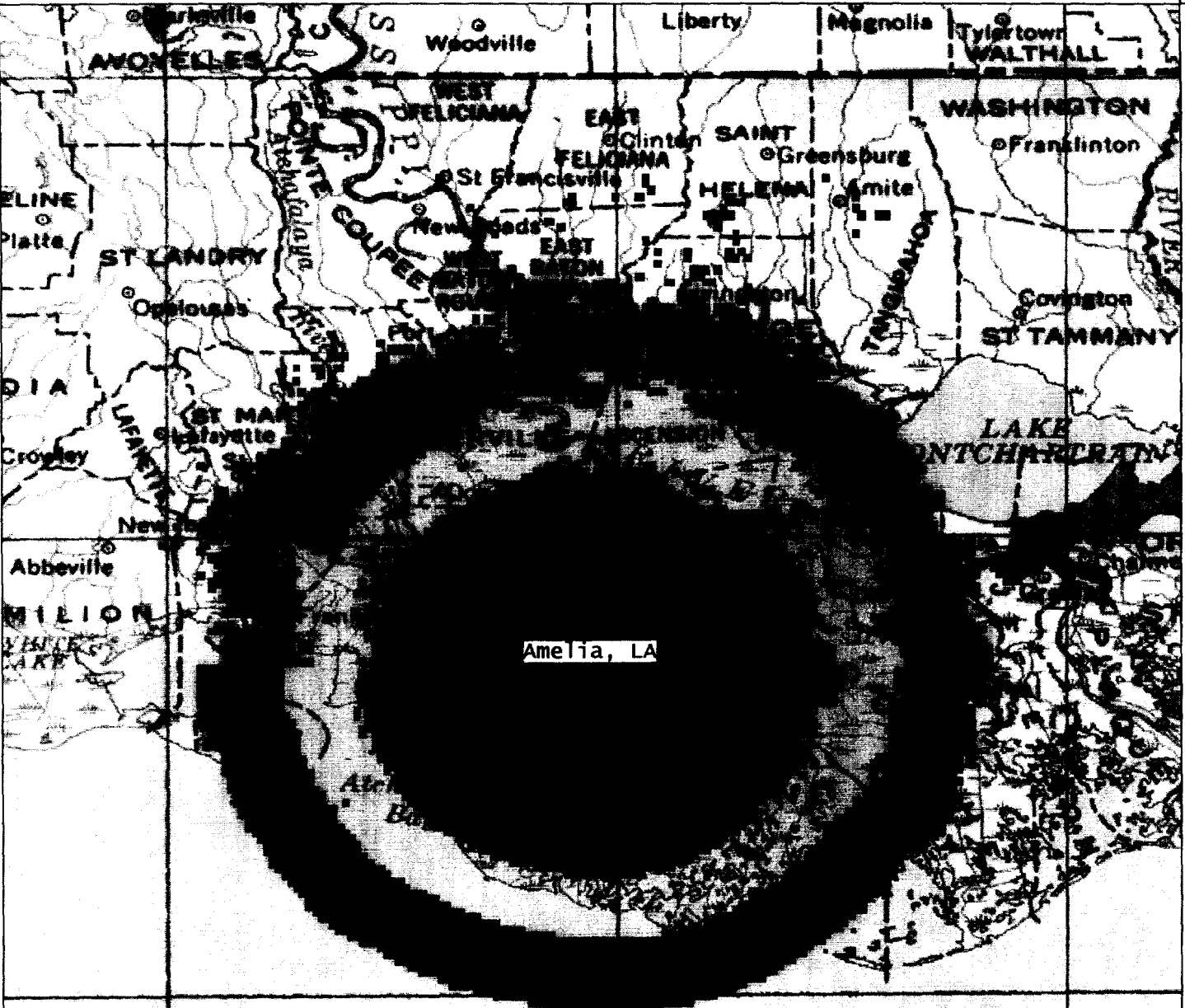
N31-09-39.81

N28-14-12.40

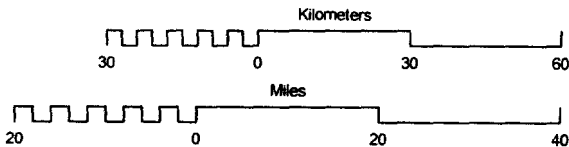
N28-14-12.40

W92-21-39.67

W89-44-40.76



- Prop levels:
- 80.00 dBmW
 - 83.00 dBmW
 - 93.00 dBmW
 - 102.00 dBmW
 - 104.00 dBmW



Map scale: 1:1,500,000
Rasterized at: 1:2,000,000

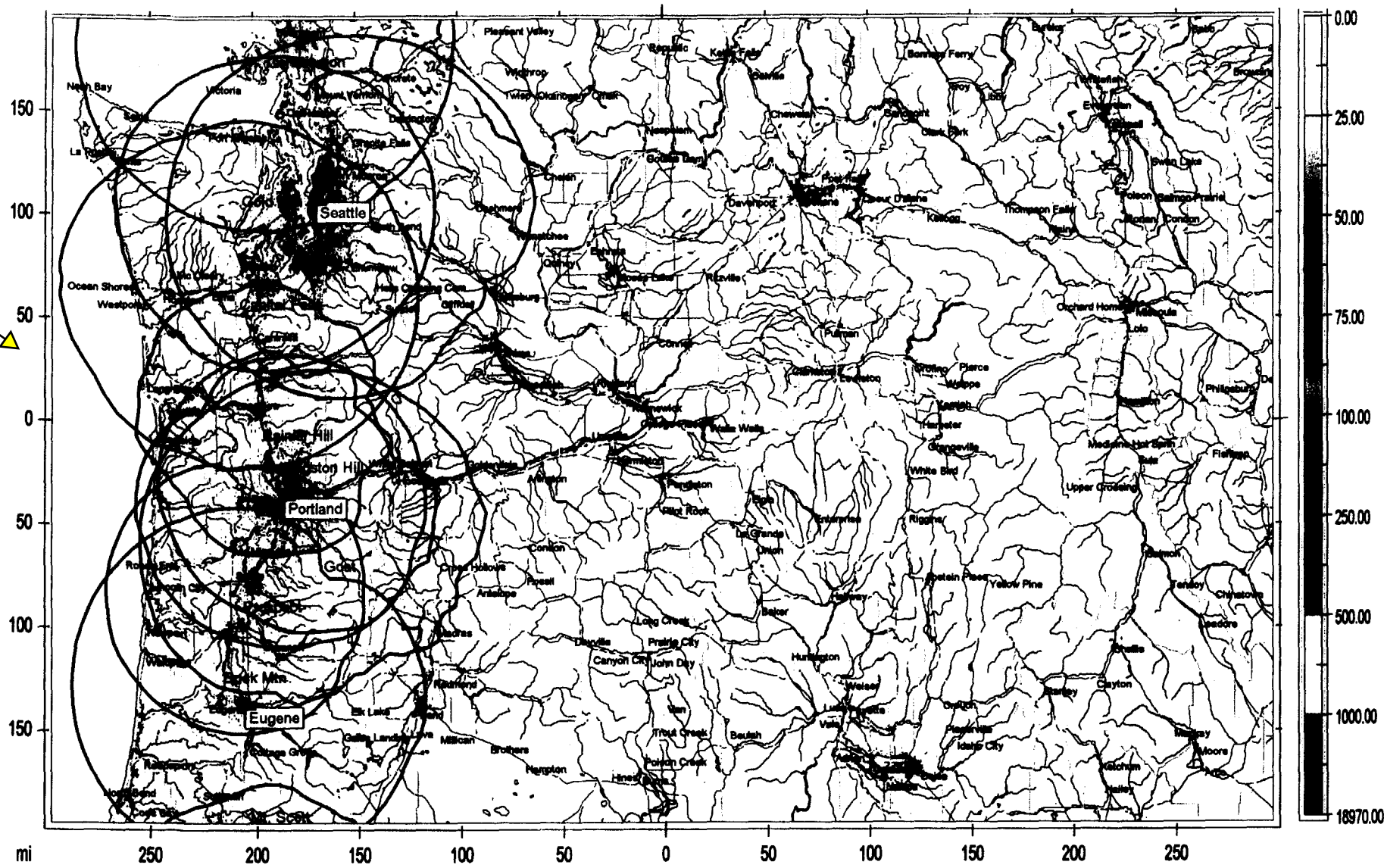
**ESTIMATED CARRIER-TO-INTERFERENCE RATIOS REQUIRED
FOR DIGITAL AUDIO QUALITY LEVEL 3 (DAQ3) COMMUNICATIONS¹**

| | <u>25 kHz Channel</u> | <u>12.5 kHz Channel</u> |
|---------------|-----------------------|-------------------------|
| Analog | 17 dB | 23 dB |
| BPSK | 11 dB | 17 dB |
| QPSK/ 4QAM | 14 dB | 20 dB |
| 8PSK | 19 dB | 25 dB |
| 16QAM | 25 dB | 31 dB |
| 32PSK | 31 dB | 37 dB |

¹ Adapted from: "Analysis of Private Packet Data Systems, Need for Protected Service Area," filed March 5, 2001 by Motorola in WT Docket No. 99-87 and "Digital Microwave Radio, Engineering Fundamentals," MSD-3003, NEC Corporation, 1985.

Oregon- Washington

Area alleged to be covering includes major metro areas and all of coast.



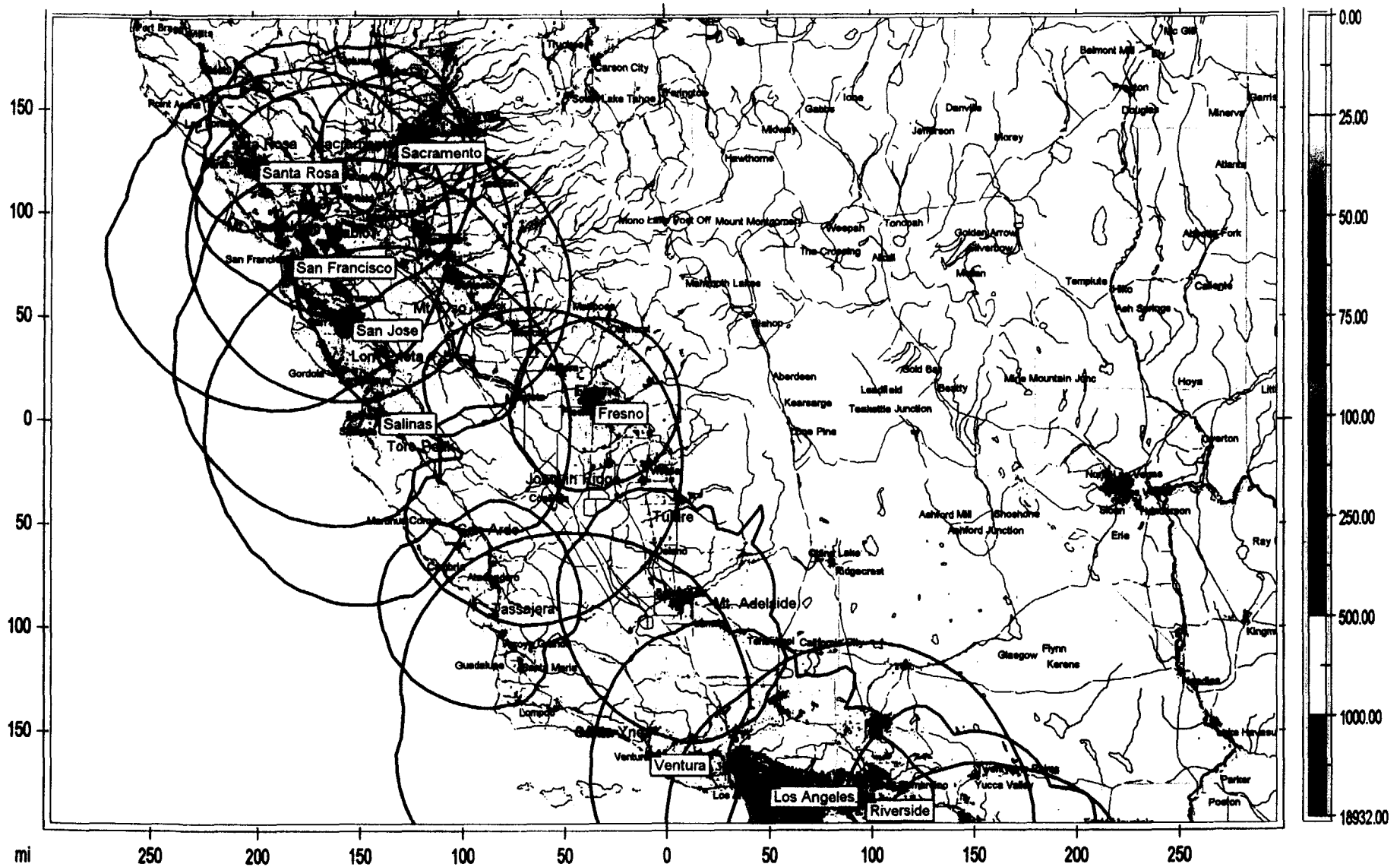
Contour vs population

County Borders

Highways

Water Features

Northern California



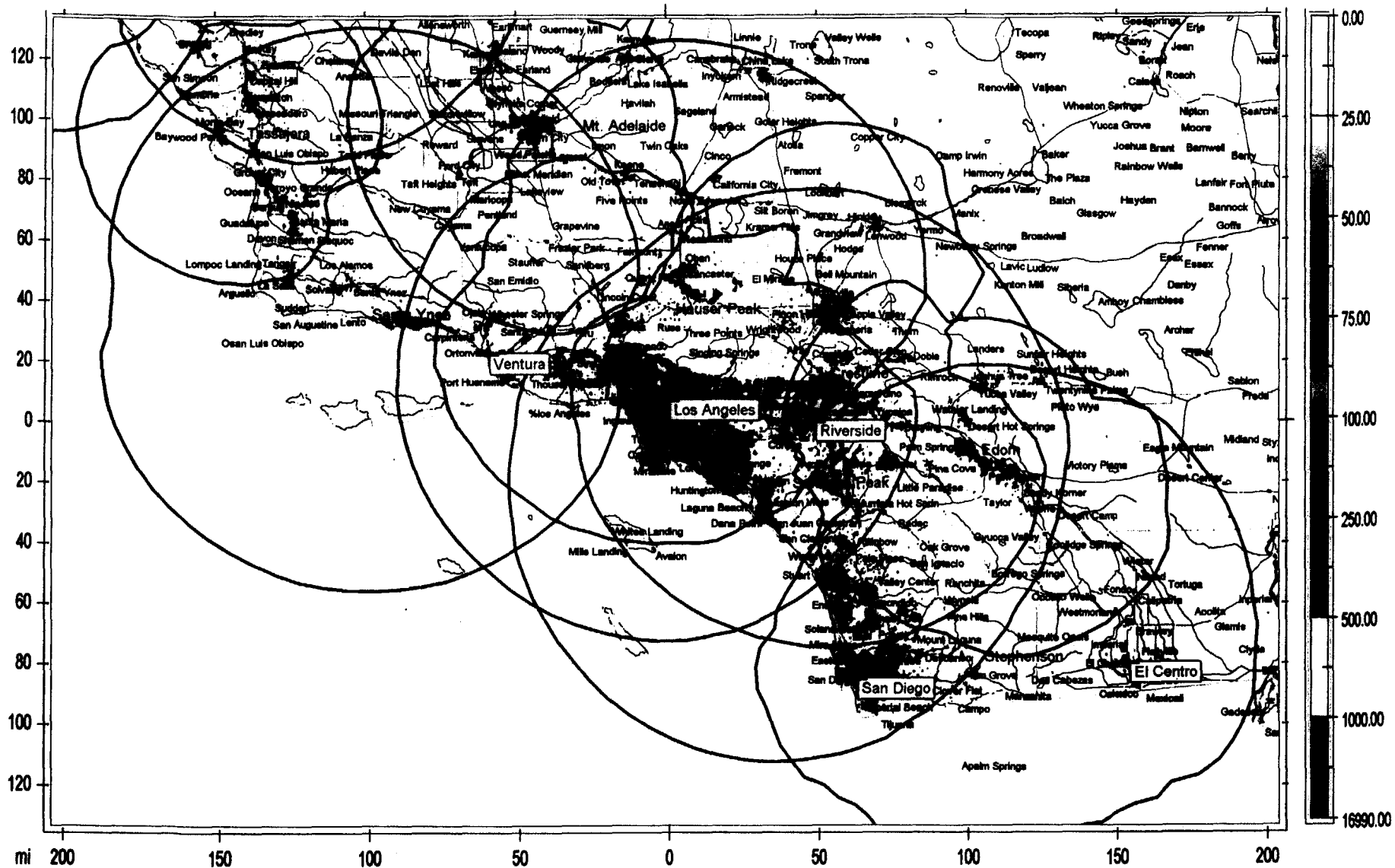
Contour vs population

County Borders

Highways

Water Features

Southern California



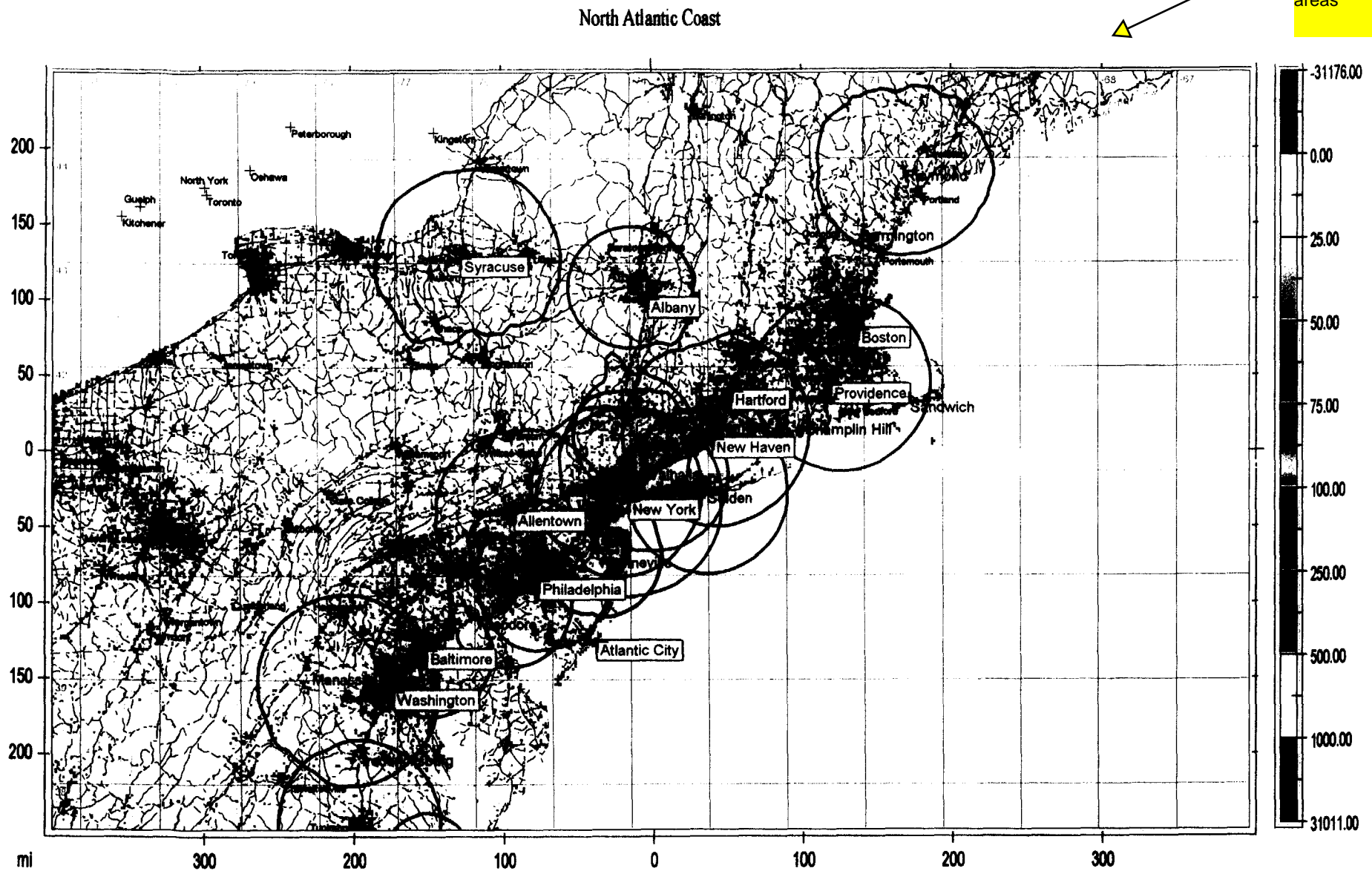
Contour vs population

County Borders

Highways

Water Features

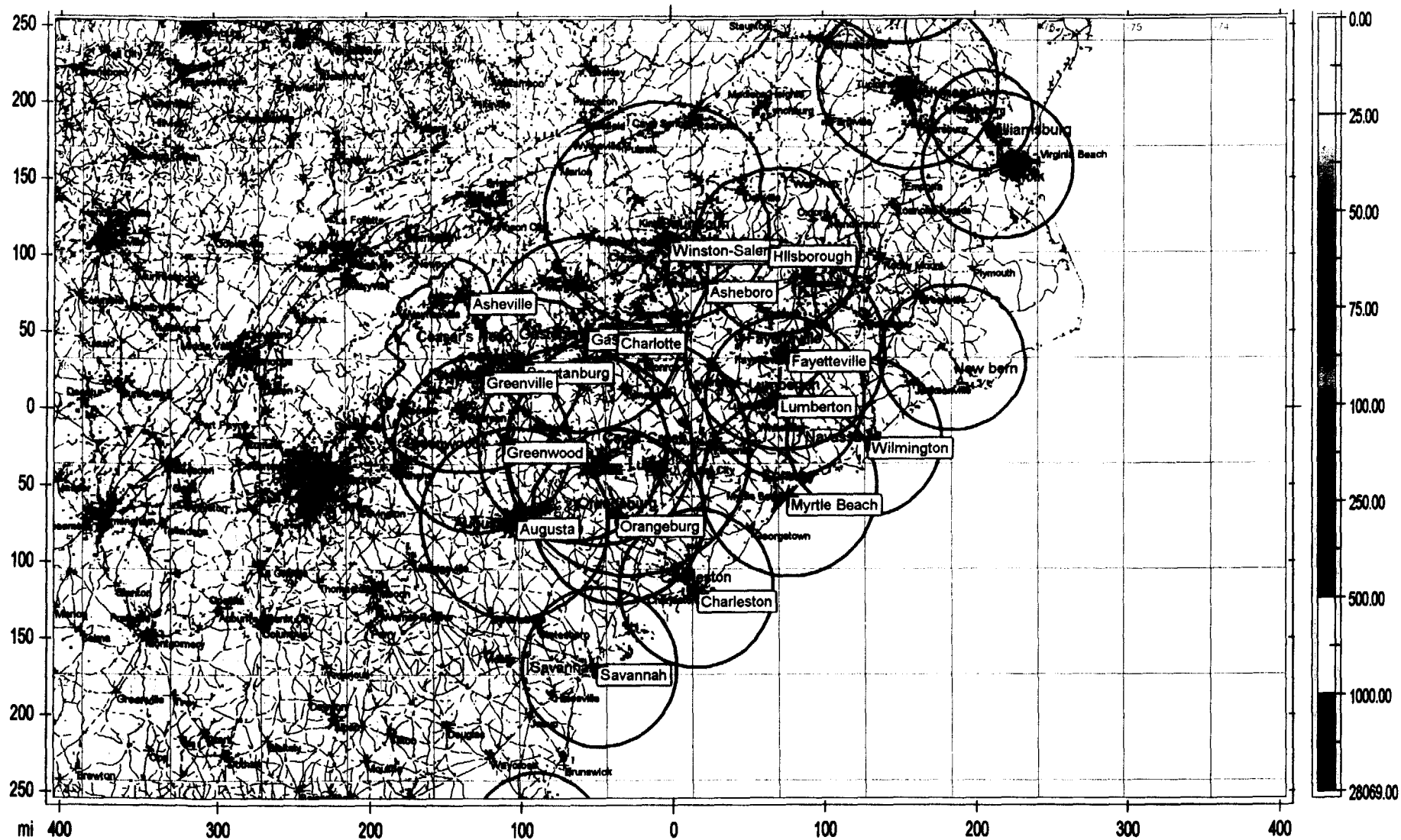
large area
and several
major metro
areas



Contour vs Population

County Borders Highways Lat/Lon Grid

Mid-Atlantic

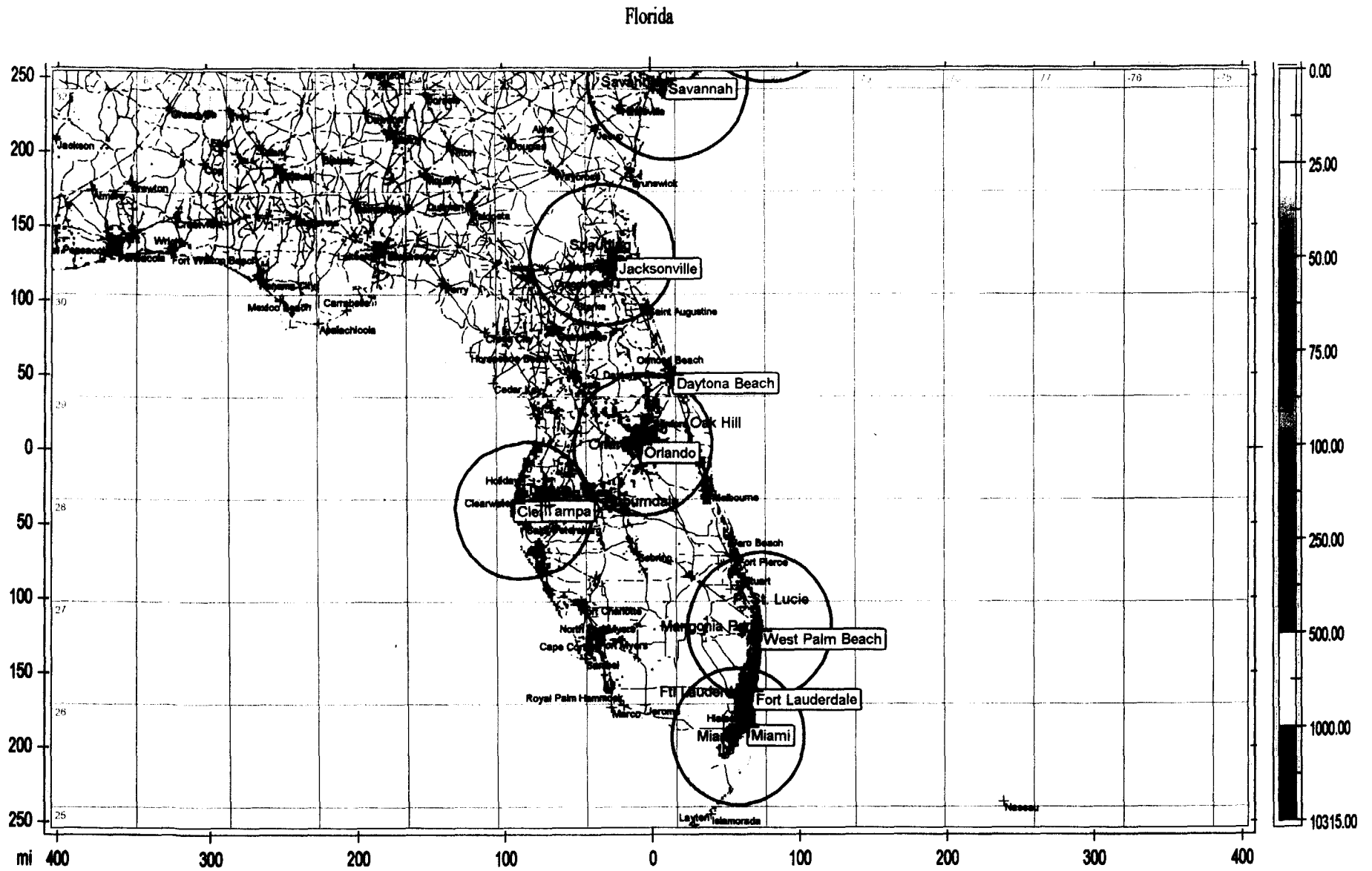


Contour vs Population

County Borders

Highways

Lat/Lon Grid

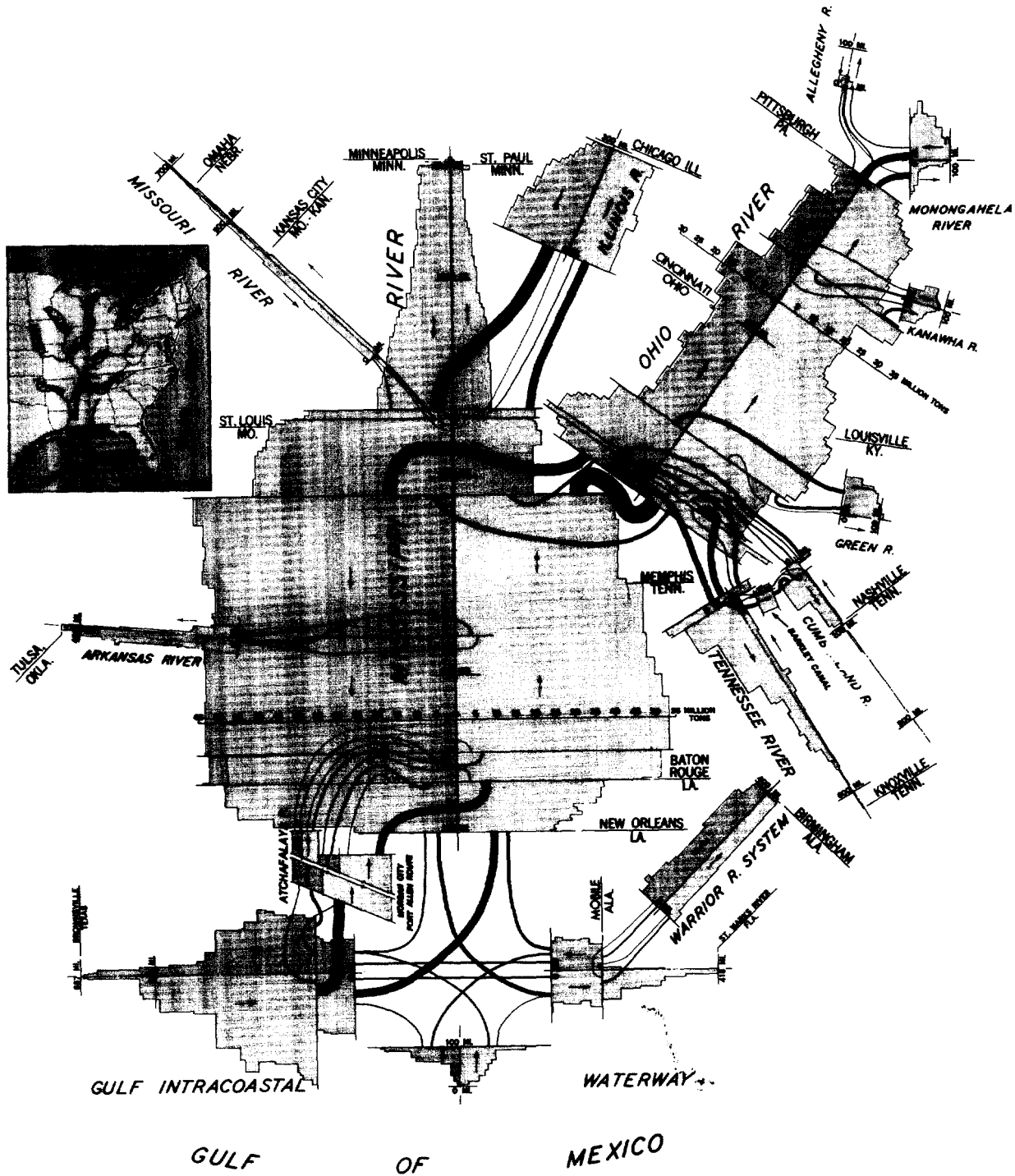


Contour vs Population

County Borders

Highways

Lat/Lon Grid



INLAND FREIGHT TONNAGE ON THE MISSISSIPPI RIVER SYSTEM
AND THE GULF INTRACOASTAL WATERWAY 1978

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

AUG 23 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of the Commission's Rules)
Concerning Maritime Communications)

PR Docket No. 92-257

Petition for Rule Making filed by)
Regionet Wireless License, LLC)

RM-9664

To: The Commission

PETITION FOR RECONSIDERATION

John Reardon
MOBEX COMMUNICATIONS, INC.
225 Reinekers Lane, Suite 770
Alexandria, Virginia 22314
(703) 299-3441

Dated: August 23, 2002

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Exhibits I - V

Summary of the Filing

Mobex Communications, Inc. respectfully requests that the Commission reconsider its adoption of amended Rule Section 80.385(b) insofar as the amended rule provides a service contour of 38 dBu and a protection ratio of only 10 dB for incumbent Automated Maritime Telecommunications Systems. Mobex demonstrates that, to provide the required continuity of service, it designed portions of its incumbent system based on a service contour of 17 dBu and that its end users rely on the existing contours for reliable AMTS service.

A 38 dBu service contour would create dead zones which would serve neither the end users of the incumbent nor the auction winner. Mobex demonstrates that the Commission was in error and that an auction winner could interpose a station between incumbent Mobex stations and destroy the continuity of service which the Commission's Rules require of Mobex. With Mobex service contours reduced to 38 dBu, an auction winner could force Mobex customers to pay tolls between the interrupted Mobex stations and could use inserted stations to harass incumbents. AMTS is a VHF Maritime service and established Part 80 Rules should continue to protect incumbents' ability to serve end users.

The Second Memorandum Opinion and Order challenged proponents of an 18 dB interference protection ratio to show that that level of protection is required. The most recent Commission action concerning interference protection provided 18 dB of protection to certain other stations in the VHF band. Mobex amply demonstrates herein that 18 dB of protection is required to protect the service of incumbent systems and the safety of end users.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

| | | |
|-------------------------------------|---|----------------------|
| In the Matter of |) | |
| |) | |
| Amendment of the Commission's Rules |) | PR Docket No. 92-257 |
| Concerning Maritime Communications |) | |
| |) | |
| Petition for Rule Making filed by |) | RM-9664 |
| Regionet Wireless License, LLC |) | |

To: The Commission

PETITION FOR RECONSIDERATION

Mobex Communications, Inc. ("Mobex"), pursuant to Section 1.106 (b) (1) of the Rules and Regulations of the Federal Communications Commission ("FCC or Commission"), hereby respectfully submits this Petition for Reconsideration of the *Second Memorandum Opinion and Order and Fifth Report and Order* ("Second Order") in the above-captioned proceeding. Mobex by this Petition requests the FCC to reconsider its action taken to limit incumbents such as Mobex to a service area contour which will be too small to permit Mobex to comply with the Commission's requirement for a continuity of service to waterways and to continue provision of service by Mobex to current and future customers.

I. BACKGROUND

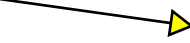
Watercom provided service to 90% of towboats and also serves barges and others.

Mobex has standing to file this Petition because it is the largest incumbent holder of AMTS licenses in the nation and is adversely affected by the Commission's action in the Second Order.¹ Operating under the WATERCOM tradename, Mobex provides service to 90% of the towboats which push barges up and down the Mississippi River and its tributaries, as well as the Gulf of Mexico, and the inland waterway system. This WATERCOM service was the pioneer of the AMTS band, and WATERCOM has operated to support the critical infrastructure of the United States for nearly two decades. This critical infrastructure includes the loading, transshipment, and unloading of energy resources like coal, oil and natural gas, as well as other industrial items like sand, gravel and petrochemicals, and foodstuffs, including the majority of the grain from the Midwest. A trip today to any riverfront city like St. Louis, New Orleans, or Pittsburgh would include a view of towboats and barges which use our WATERCOM system.

To coordinate this constant bustle of vessels laden with their cargo heading south, and empty vessels returning north, WATERCOM provides wireless communications along the length of the riverway system, and out into the Gulf of Mexico -- all in a seamless and uninterrupted fashion from Minneapolis to New Orleans, and from Pensacola to Brownsville, Texas. WATERCOM owns over 50 towers along the waterways, and leases

¹ Mobex Communications, Inc. owns a controlling interest in its affiliate, Mobex Network Services LLC ("MNS"). MNS is the official holder of record for the licenses in the AMTS band which are the subject of this proceeding. For its part, MNS operates under the tradenames WATERCOM and Regionet in its areas of operations around the country.

several other towers, to ensure uninterrupted, continuous coverage 24 hours a day, 7 days a week, to all parts of the world's third longest river system: the Mississippi and its tributaries. This investment has been immense, but the rewards for the operators of the barges and towboats are even more significant.



For example, a towboat can send and receive voice calls from all areas of the riverway system, whether it be for business or personal use. Crew members can call home at any time, to catch up on the day's little league results or conduct personal business. In addition, the WATERCOM service offers fax and data transmission features, so that boats can wirelessly request supplies to be prepared for the next port of call, order repairs or a change of crews without stopping for more than a few moments at the next port to load and unload the pre-ordered items. As in most industries: time is money. By saving towboat captains and crews time in dock, the WATERCOM system allows them to operate efficiently, thus lowering the cost of transport for the basic commodities which serve us all: food, heating, gasoline, etc. And by allowing crew members (the average crew is ten people) to stay in contact with their families and friends during long absences, as well as to conduct banking and other personal business matters, WATERCOM fulfills the crews' need for both business and personal communications.

Even more important is the public safety role of the WATERCOM system. If a towboat with barges hits a bridge in the fog, serious loss of life and damage to property can occur. Chances are that that towboat will be a WATERCOM customer, and it will therefore be able to call for emergency response on both land and water, using the 24/7 availability of the WATERCOM system. In most places along the riverway, there simply is no alternative to WATERCOM. Thus, WATERCOM equals emergency communications to the towboat and barge industry. And it is indeed a hazardous industry, with constantly changing river currents, weather, and dangerous materials being transported. The key to prompt emergency response is our ubiquitous coverage. Crews can call emergency Coast Guard and land based EMS responders, including local police, fire and ambulance, using the WATERCOM system. Cellular and other systems do not work in most areas where towboats and barges operate. Instead, Mobex's WATERCOM system is their lifeline.

Provided service where cellular and other systems don't work.



Mobex operates not just under the WATERCOM tradename in the Midwest and Gulf of Mexico areas, but under a similar AMTS tradename on the East Coast, Great Lakes, and West Coast, which tradename is Regionet. Like WATERCOM, Regionet has held its licenses and provided service to the public for many years and was acquired by Mobex in the year 2000.

Both Watercom and Regionet offering service to the public for years.



In our nation today, great emphasis is placed upon national security, and with good reason. The attacks of September 11th showed to us the vulnerability of our landmarks

Mention
providing the
public with
service in
emergencies,
not a restricted
group or one
company.

and installations. Bridges, oil refinery docks, even barges themselves, could be the target of terrorist attacks. Exhibit I hereto is a newspaper report of the destruction of a highway bridge by a barge on May 26, 2002. While the incident does not appear to have been intentional, the incident demonstrates the ease with which land and water transportation could be disrupted intentionally. Such an incident in a major urban area would require the very best in radio communications to avoid further loss of life and property both on land and on the water. Reliable AMTS service can provide the public with an extra margin of protection in such maritime related situations. Mobex rightly serves a role in protecting the security of landmarks, installations, and other vessels on the waterways. Using our AMTS system, crews can report suspicious activities to local and federal law enforcement on a real-time basis. Similarly, response to any terrorist attacks will be hastened by the availability of communications on the waterways.

Only with WATERCOM's and Regionet's current continuous coverage can this pre-emptive capability be intact and a prompt response to terror attacks be ensured. The tower sites that have been constructed or leased by Mobex are based on a 17 dBu contour. In other words, Mobex's service offers continuous coverage today, and has for nearly twenty years, by relying upon the excellent propagation characteristics of the 217-219 MHz AMTS band, and spacing its towers 17 dBu apart.

The licenses issued to Mobex's WATERCOM and Regionet divisions were all issued with 17 dBu contours. In fact, Regionet and WATERCOM based their applications and their ultimate system construction along thousands of miles of coastline solely upon the 17 dBu contours granted to them by the FCC.

Allege seamless communications system along coast and waterways, put spectrum to use in public interest, etc.

—▶ Regionet and WATERCOM tradenames today are proud symbols of a licensee that has invested millions of dollars to develop a seamless system of communications along the coastlines of the nation's riverways, lakes and seashores. In a telecommunications industry which is today replete with highly leveraged companies which are asking the FCC to delay construction deadlines, postpone auctions, or give them other financial relief, Regionet and WATERCOM have lived up to the public trust placed in them as licensees: we have constructed and are operating our facilities, rather than letting the valuable public spectrum lie fallow.

To summarize, Mobex today offers seamless coverage as per our license applications and grants. That coverage is seamless because it is based upon a 17 dBu contour. We have operated under WATERCOM and Regionet for nearly twenty years with this coverage contour, and the voice and data quality is excellent.

II. PETITION FOR RECONSIDERATION

A. Incumbent Service Contour Should Not be Diminished

1. Licensees Were Free to Pick Their Contours So Long as Continuity Existed

The FCC rules mandate that an AMTS incumbent provide continuity of service along the waterway.² The FCC rules specifically state that AMTS licensees must provide continuity of service to either a substantial navigational area along a coastline; or sixty percent of one or more inland waterways, except that a waterway less than 240 kilometers (150 miles) long must be served in its entirety, and waterways small enough to be served by a single station are not eligible for AMTS service.³ In its declaratory ruling released to Warren C. Havens on August 15, 2002, the Wireless Telecommunications Bureau stated that “the term ‘integrated’ conveys the requirement that the base stations in an AMTS system must be connected, thereby ensuring seamless communication throughout the system for a vessel traveling along a served waterway.”⁴ This ruling, released subsequent to the Second Order, makes absolutely clear that the Commission cannot adopt a new service contour rule that would disrupt the seamless communication of adjacent AMTS stations.

Recognize
AMTS is
CMRS.

→ This requirement for continuity of service is not shared by the 220 MHz band, nor is it present in any other CMRS service. It is a unique pre-requisite for becoming an

² 47 C.F.R. § 80.475 (a).

³ *Id.*

⁴ 17 FCC Rcd _____, _____ (DA 02-2024 Released August 15, 2002) (footnotes omitted).

AMTS licensee. In fact, applicants for AMTS licenses that did not show continuity of service on their applications had those applications dismissed *prima facie*.⁵ For example, an applicant applied for the Great Salt Lake but proposed to cover only part of it, so the application was dismissed.⁶

In reviewing applications, the FCC permitted an applicant to use either the 17 dBu or the 38 dBu contour, or any other contour the applicant could justify, as long as the continuity of service was met. Thus, the Commission granted licenses based upon the engineering requirement not of the size of the contour, but of the continuity of service and left it to each applicant to determine how it would meet that continuity of service.

The FCC admits this in paragraph 32 of its Order, in which it states that “. . . authorizations of incumbent AMTS stations were not granted upon a specific service contour, only upon a showing of continuity of service.”⁷ Note 144 provides further guidance: “the Commission, when reviewing applications, would exercise its engineering

⁵ See, e.g., In the Matter of Applications of Warren C. Havens for Automated Maritime Telecommunications System Stations at Various Locations in Texas, 16 FCC Rcd 2539 (2001). Commission focused on continuity of service requirement in finding that Havens's applications were defective because they did not propose 60 percent coverage. *Id.* at 2548 ¶6.

⁶ See Wireless Telecommunications Bureau, Site-by-Site Actions, *Public Notice* 221661, Report 1152 (April 17, 2002) (dismissal of Mobex Communications Great Salt Lakes license application).

⁷ Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd. 6685, 6701 ¶32 (2002).

judgment regarding the size of the service contours and whether the proposed system would provide continuity of service.”⁸

That continuity of service, however, was based on the applicant’s submission of its contours. At no time did the Commission substitute its own contours, or different contours, to an application. There is simply no proof that anything other than the applicant’s contour submission was used to grant or reject its application. Instead, the Commission accepted or rejected applications based solely upon the contours presented in the application itself.

Because AMTS licenses fall within the maritime portion of the Commission’s rules, known as Part 80, Mobex naturally chose the 17 dBu contour, which is used in the other Part 80 maritime services, including the VHF Public Coast Service.⁹ WATERCOM applied for and received its licenses based on the 17 dBu contour. It then built 50 towers along the inland waterways, so that it could meet its FCC mandate for continuous coverage. Commercial towers did not even exist in most parts of the riverway and still do not exist today in many parts of the riverway. Thus, WATERCOM relied on the FCC’s grant of its license at 17 dBu contours and built not just a wireless equipment infrastructure, but 50 towers to support that system, as well. Attached as

⁸ *Id.* at n.144.

⁹ By definition, lying between 30 MHz and 300 MHz, the AMTS frequencies are Very High Frequencies.

Exhibit II hereto are maps of this system based upon 17 dBu contours. 38 dBu contours are also shown. Each site is owned by WATERCOM unless otherwise specified.

Allege over
3,000 miles
covered.

Similarly, Regionet applied for and received its licenses with a 17 dBu contour. Regionet constructed its system along the Pacific, Atlantic, and Great Lakes coastlines -- over 3,000 miles in total -- in a manner which meets the continuity of service prerequisite utilizing the approved 17 dBu contours.

The other operating licensee in this service, Paging Systems, Inc. (PSI), filed most of its applications using 17 dBu contours, and built its systems on that basis. The FCC's salient rule was not which contour was chosen -- *instead, the salient rule was that the contour chosen must provide continuity of service sufficient to meet the requirement.*¹⁰ The engineering studies attached as Exhibits III and IV hereto demonstrate that superimposing a new 38 dBu contour, would impermissibly sever the continuity of service upon which the AMTS incumbent licenses are based.

2. Dead-zones Serve Neither the Incumbent nor the Auction Winner

The FCC has adopted a preliminary rule which states that the only contour to be used is the 38 dBu contour. The FCC was not yet convinced by Mobex and Motorola's filings showing that a 17 dBu service contour is needed for incumbents to maintain continuity of service. The FCC reasoned that paring back an incumbent to a 38 dBu contour would not

¹⁰ See 47 C.F.R. § 80.475(a).

damage the incumbent's ability to provide continuity of service; the FCC reached this belief on the premise that no auction winner could place a transmitter between an incumbent's 38 dBu contours due to the fact that transmitters have to be more than 72 miles away from an incumbent's contour. To support this claim, the FCC stated in Paragraph 32 of its Second Order that:

Our own engineering analysis of incumbent systems that were designed on the basis of a larger service contour, such as 17 dBu, demonstrates that the system's continuity of service will not be severed (*i.e.*, that it will not be possible for a geographic licensee to interpose a facility between co-system incumbent stations) if the incumbent is protected to a 38 dBu service contour.¹¹

Thus, because of the "72 mile" rule, it appears that the FCC believed that no third party auction winner could serve the space between Mobex 38 dBu contours. The FCC should rethink this position. Exhibits III and IV hereto demonstrate clearly that a third party auction winner could intrude between Mobex 38 dBu contours. The resulting "dead zone" created by the Commission's initial decision would make little sense for the auction winner and incumbent alike. It would, instead, create a dead zone wherein incumbents wished to operate but were not authorized, while the auction winner would be technically licensed but unable to operate effectively, except to harass the incumbent. Such a dead zone scenario does not further the interests of the incumbent, the auction winner, or the public which will not be able to obtain service in the dead zone.

¹¹ *Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd at 6701.

Nor does the FCC gain much additional auctionable space. Exhibits III and IV show that Mobex's coverage of the tertiary areas around urban centers would be reduced when going from 17 dBu to 38 dBu contours, but that little or no meaningful increase in auctionable areas for the FCC would result. The auction bidder will not be able to value the additional area with any certainty, so its bid would not be significantly higher than it would in the case of a 17 dBu incumbent contour.

Mobex believes the Commission needs more information about the impact of this new rule. Mobex understands the attractiveness to the Commission of having additional areas to auction, but the area created by reducing the 17 dBu contour to a 38 dBu contour does not give the Commission much "buck for its bang." To the contrary, the new rule creates more disruption than it resolves. The incumbent, Mobex or PSI, will not be able to comply with the FCC's prerequisite for continuity of service, because the uninterrupted system of interlocking 17 dBu circles has now been transformed into a disjointed patchwork of 38 dBu circles. Exhibits III and IV show this impact.

And the bidder will not place a high value upon the extra space created between contours. This bidder hesitation will be due to the fact that it is unclear how much can be served on the ground in reality, versus a propagation map.

3. The Public Interest is Disserved

The FCC must render decisions which are in the public interest, and it does so with great regularity. We regret to conclude that the consumer of riverway communications would be disserved by the FCC's 38 dBu contour rule.

Under both the Administrative Procedure Act (the "APA"), and the Communications Act of 1934, as amended (the "Act"), the FCC is charged with allocating spectrum resources in a manner which furthers and promotes the public interest.¹² This "public interest" obligation has been defined to include prompt provision of service to the public. Mobex has built its system, using its own funds, and has provided service to the public for years under the WATERCOM and Regionet names.

Service to the public, does not say restricted group or entity.

Now, the FCC would unintentionally deny service to current Mobex customers operating within the formerly continuous waterway communications systems. This is not a matter of imposing additional cost on Mobex to provide the service it has provided to the public. Instead, it is a matter of securing the public's interest in ensuring uninterrupted service along a string of connected riverways and coastlines. The primary service in the AMTS band, unlike the Part 90 CMRS bands, is maritime service.¹³ Using the 17 dBu contour, WATERCOM vessels can operate from the Ohio River in Pittsburgh, down to the

¹² See 5 U.S.C. § 553(b)(3), (2002); and, 47 U.S.C. §§ 151, 157 & 307, (2002).

¹³ See In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, PR Docket No. 92-257, 12 FCC Rcd 16949, 16953-16955 (1997).

Mississippi River, through St. Louis to New Orleans, and then along the Gulf of Mexico coastline without ever leaving their coverage areas. In changing its rule to permit co-primary operations of land based services, the FCC explicitly preserved the requirement that maritime operations take precedence over land based services. The Commission recognized that the public has an ongoing interest in receiving communications on the waterways using these AMTS systems.¹⁴ Yet, the FCC's rule change will deny communications to those currently using them in all the disconnected areas of operation between Pittsburgh and New Orleans, and along the Gulf of Mexico from Brownsville, Texas, to the Florida Panhandle. The situation is the same for the seashore and Great Lakes areas served by both PSI and Mobex's Regionet tradename: loss of ubiquitous service for a transportation public that needs ubiquitous service.

4. The Result Would Be The Inefficiency of Multiple Operators

Understandably, the Second Order suggested that it may be difficult for auction winners to engineer a site between the disjointed 38 dBu contours. However, our experience in the telecommunications industry leads us to conclude that any combination of factors, including advances in technology, the existence of natural barriers like mountains and trees, and old-fashioned human ingenuity render it very likely that an auction winner will serve the entire area it is purchasing, including the "dead zone" in between an incumbent's 38 dBu circles.

¹⁴ See Amendment of the Commission's Rules Concerning Maritime Communications, *Fourth Report and Order and Third Further Notice of Proposed Rulemaking*, PR Docket No. 92-257, 15 FCC Rcd 22585, 22605 ¶ 39 (2000).

This interposition of small systems along the riverway which are owned by third parties would force boats to carry two or even more redundant radios and subscribe to multiple services so they can, at a minimum, always send emergency communications, depending upon where they are in the riverway. Yet, towboat pilothouses are no larger than the cockpit of a tractor trailer, and space is similarly limited. Likewise, the possibility that several new operators with incompatible systems could spring up along the river means that more than two radio systems may be needed, where just one fits the need today.

Imagine a scenario in which another bidder won the dead zones along the 1,500 miles of the Mississippi River system served today by only WATERCOM. In order to maintain continuity of service, for emergencies and for business purposes, a boat owner who today uses one radio system, would be required to buy two different radios and subscribe to two different service providers -- one for each stretch of the riverway. This scenario is exactly what the FCC was trying to avoid when it adopted the AMTS service requirements for continuity of service by the licensee.¹⁵ Mobex has fulfilled its duty of continuity of service, and even exceeded its mandate by building its own towers in areas where none existed, all so that the communications users on the waters could be in constant contact with the rest of the world on land and with other vessels on the waterway. The Commission's Rules should not imperil existing continuity of service and impose new burdens on end users.

¹⁵ See 47 C.F.R. § 80.475(a).

5. The Rule Creates an Incentive for Auction Winners to Charge a Toll for Passing Through Their Areas

By licensing dead zones in between an incumbent's operations along a riverway or coastline, the FCC is unwittingly creating a scenario for blackmail by the auction winner. If the auction winner cannot provide meaningful service, it can make sure that the incumbent does not, either. For example, an auction winner could beam a narrow path across the river, or establish a similar blockage of service between 38 dBu contours in order to exact a toll along the waterway from the incumbent and/or its customer. Such a toll is inefficient economically and is not the goal of a sound public policy. Mobex believes the FCC does not intend to create such a situation, but its new rule could lead to just such a result.

6. The Rule Contradicts Other FCC Rules and Policies

This rule has the effect of rendering Mobex in non-compliance with FCC rules for continuity of service -- without any ability under the rules to return to a state of compliance with the rules -- short of purchasing spectrum at auction. In other words, we must serve the waterways in an uninterrupted fashion. Now, the Commission has interrupted that service, but not given us the opportunity to amend our existing licenses so we may place transmitters in locations to fill in the gaps created by the FCC's new rule. If the Commission wishes to adopt 38 dBu contours, then it should give Mobex additional time to add sites so that continuity of service remains unchanged from the current system based upon the 17 dBu applications which the FCC granted 20 years ago. Without that time to

construct fill-in sites, the rule limiting Mobex to 38 dBu contours, while at the same time forcing us to maintain continuous coverage but not letting us build more sites even at 38 dBu, works an arbitrary and capricious result.

7. Part 80 Rules Should Govern the Contour

Mobex naturally relied upon the FCC's Part 80 Maritime Communications rules when determining which service area it should use in its applications for licenses. The FCC now wishes to import a Part 90 service contour, without any explanation of why the Maritime rules are not sufficient for its purposes. AMTS is a FM service, while the 220-222 MHz was designed for AM service. The Part 80 rules for Maritime Services include not just VHF AMTS, but other Maritime Services, including the VHF Public Coast station service. In the VHF Public Coast Service auction, the FCC applied the 17 dBu contours, which are contained in the Part 80 service. There, the FCC refused to import a contour rule from another service, particularly an exclusively land-based, AM, Part 90 service, such as the 220 MHz service.

The FCC surely complied with Section 309(j)(7)(A) of the Act, 47 U.S.C. § 309(j)(7)(A) and did not base its decision on whether more revenue will be raised at auction by diminishing incumbent contours. Yet, we find no evidence in the record, indeed, no explanation of why this 38 dBu contour is more compelling than the traditional, VHF, FM, Part 80 contour. There simply was a lack of complete information in front of the Commission, we believe, and we are trying to rectify that situation herewith so that the

Commission can make a fully-informed decision before resorting to the importation of the Part 90 rule for service area in the auction. Mobex notes that no other Part 90, AM, 220 MHz service rule was adopted by the FCC in its Order. In fact, both the operators and the manufacturing community supported adoption of the VHF Part 80 rules with absolute unanimity.

As a Maritime, Part 80 licensee, Mobex is rule-bound to provide priority access to maritime users. It is a Part 80 service, so the time-tested Part 80 rules should govern the contour issue as well.

Since AMTS did not have a specific guideline as to service contour, we looked at the service contour defined for the VHF Coast Station Service. As both VHF Coast Station Service and AMTS are both "VHF" services (the VHF band being defined as 30-300 MHz) and the frequency bands are close together, we considered this to be a reasonable service contour assumption. Moreover, as the VHF Coast Station service was a "manual" service, allowing for the operator to make some distinction between a wanted and unwanted signal, it was our view that an automated system, without this deductive element, would require a service contour (at which a C/I ratio would be applied) at least comparable to that of a manual service.

Mobex therefore applied for the licenses using 17 dB contours, which the FCC accepted for filing without modification, and consequently granted. Thus, Mobex had

every expectation that the grant included a 17 dB service contour, as that had been what was generally applicable in comparable Part 80 services which compete with AMTS.

Mobex has continuously used the 17 dB contour as the basis for determining where service could be provided, as well as our business development projections. Under the current rules incumbent licensees are allowed to build fill-in stations within their identified service contours, and, in fact, Mobex has done just that in several places to date (including Boston, MA; Avon, CT; and Washington, DC). Again, since the FCC did not reject, or even question, the original 17 dB contour specified in the original applications, Mobex built these stations per the rules in force.

Mobex would consider it inequitable for the FCC now to institute a new service contour, applying it retroactively, thereby negating all precedent, and amending long-standing policy without due process of law. To maintain the continuity of service required by the Commission and relied on by incumbents' end users, the Commission should define the incumbent service contour at the 17 dBu level.

B. A Carrier to Interference Ratio of 18 dB is Needed

A 10 dB co-channel interference protection may be adequate with the amplitude modulation used in the 220-222 MHz band, but it will be inadequate for AMTS incumbents who use frequency modulation (FM). The experience of Motorola, Inc.

(Motorola) demonstrated that FM trunked systems in the 800 MHz and 900 MHz bands could not receive adequate co-channel interference protection at 10 dB, but instead required 14 to 17 dB protection.

Yet, the Commission was cautious in lieu of the submission of further information; it determined in paragraph 33 that “[B]ecause Motorola presented an engineering analysis specific to its [800 MHz] service, the Commission was able to make a reasoned decision regarding its request for a greater co-channel protection standard in the 800/900 MHz bands. Given the differences in propagation characteristics, we feel that the burden is on the proponents to demonstrate why the Motorola 800/900 MHz analysis should govern our decision in the AMTS band.”¹⁶

More recently, Motorola affirmed and expanded its advice concerning the required interference protection ratio. Attached to the Initial Comments of Nextel Communications, Inc., in WT Docket 02-55 is an engineering statement of Leonard Cascioli, Vice President – RF Engineering and Operations at Nextel. At paragraph 22 of his statement, Cascioli stated that discussions with vendors and analysis of mobile data systems,

Indicates that they typically require a C/(I+N) ratio of 25 dB or greater (30 dB in some instances) to perform adequately. The typical voice system requires a C/(I+N) of 17 dB. The more stringent C/I+N requirement appears to be driven by (a) the greater potential for the RF link between the mobile data terminal and a serving base station to fade destructively (i.e. fade such that portions of the

¹⁶ *Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd at 6700.

message are irretrievably lost) during the time that a message is sent from the base station to the mobile data terminal combined with (b) the fact that a computer, rather than a human ear and brain, is attempting to decode the received signal. These factors make the increased C/I+N requirement reasonable in and of itself; however, the implemented system design must be robust enough to maintain this elevated C/I+N in the actual environment the system must operate in.¹⁷

The Mobex system relies on digital signaling for call setup. Mobex is currently negotiating for additional equipment, all of which will use digital signaling for call setup.

→ Mobex expects the market for AMTS mobile data will increase rapidly, necessitating an adequate Carrier to Interference plus Noise ratio to meet the needs of the public. The Commission should carefully consider Mr. Cascioli's statement, because allowing interference ratios to rise to as little as 10 dB would forever preclude the public from enjoying reliable call setup and mobile data on incumbent AMTS systems.

Attached at Exhibits III and IV are demonstrations of why the Motorola analysis at 800 MHz applies to warrant greater than 10 dB C/I protection in the AMTS band. Clearly, these studies shows that 10 dB is not enough, even for an analog system, in the AMTS band. For a digital system, 10 dB would be disastrous. While Mobex uses an analog 12.5 kHz narrowband voice technology, its signaling and call set up is digital. Therefore, the adopted C/I standard must encompass digital transmission and avoid an excessive rate of data errors.

¹⁷ See Comments of Nextel Communications, Inc., *In the Matter of Improving Public Safety Communications in the 800 MHz band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels*, WT Docket No. 02-55, app. (May 6, 2002).

On June 6, 2002, the Wireless Telecommunications Bureau (the WTB) released a Public Notice concerning required interference protection ratios in the Private Land Mobile Radio bands between 150 and 470 MHz, Wireless Telecommunications Bureau Accepts and Approves Consensus Analytical Method for Determining Additional Frequency Coordination Requirements for Certain Private Land Mobile 150-470 MHz Applications (the "Bureau's Standard").¹⁸ A copy is attached hereto as Exhibit V. In the Bureau's Standard, the WTB established a service contour for certain VHF stations of 37 dBu and an interference contour of 19 dBu for proposed co-channel stations. By definition, AMTS is a VHF service. The protected stations operate on frequencies formerly allocated for use by the Power, Petroleum, Railroad, Manufacturers, Forest Products, Telephone Maintenance, Motor Carrier, and Automobile Emergency Radio Services. Eligibles in those Radio Services were all entities whose activities incorporate more than the usual level of concern for protection of the safety of life and property. Like those Radio Services, the Maritime Radio Services provide the first line of protection for the safety of mariners. Having established an interference protection of 18 dB (37 dBu – 19 dBu) for these land mobile uses, it would be unreasonable for the Commission to provide incumbent AMTS systems with any less protection for the safety of their users.

¹⁸ 17 FCC Rcd 10628 (DA 02-1319 Released June 6, 2002)

CONCLUSION

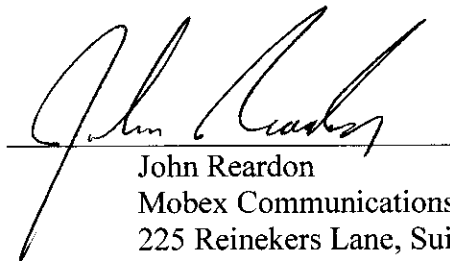
The FCC's Second Order provides that an auction winner must place its transmitter no closer than 120 kilometers (roughly 72 miles) away from an incumbent's service contour. However, the FCC's new rule adopts a 38 dBu contour as the protected incumbent contour. Mobex's engineering studies show that we lose continuity of service with 38 dBu contours, and the FCC itself seems to admit that we lose such continuity, but the Commission then explains that no auction winner would build in the space between because it would not be feasible. This is hardly a consolation to Mobex's subscribers, since the capabilities of the auction winner and future technology developments, as well as the vagaries of terrain, make it almost certain that new stations would be constructed, even if just to create a nuisance to the incumbent and thereby exact some form of toll or tribute. Part 80 rules should govern this Part 80 service, and the 17 dBu contour rule is no exception. The Commission should apply a 17 dBu contour to incumbent systems and clarify that fill-in stations constructed prior to auction remain in service and are entitled to protection.

The attached engineering studies clearly show that a C/I ratio of 10 dB is not adequate for an FM system in the AMTS band. Instead, 18 dB is needed.

Mobex has reviewed a draft of the Petition for Reconsideration to be filed by Paging Systems, Inc. in the above captioned matter and fully supports the positions therein. To avoid burdening the record, Mobex will not reiterate those points here.

WHEREFORE, THE PREMISES CONSIDERED, Mobex Communications, Inc., respectfully requests, based on the public interest and public safety, that the Federal Communications Commission reconsider its decision to adopt a 38 dBu contour for incumbents who have built systems based upon continuity of service through a 17 dBu contour. Similarly, Mobex requests the FCC to adopt a 18 dB Carrier to Interference Ratio, in accordance with the engineering studies submitted herewith.

MOBEX COMMUNICATIONS, INC.

By: 
John Reardon
Mobex Communications, Inc.
225 Reinekers Lane, Suite 770
Alexandria, Virginia 22314
(703) 299-3441

Dated: August 23, 2002

~~EX PARTE OR LATE FILED~~

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

RECEIVED

In the Matter of)

OCT - 7 2002

 Amendment of the Commission's Rules)
 Concerning Maritime Communications)
PR Docket No. 92-257
FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY
 Petition for Rule Making filed by)
 Regionet Wireless License, LLC)

RM-9664

To: The Commission

REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION

Mobex Communications, Inc. ("Mobex"), pursuant to Section 1.429(g) of the Rules and Regulations of the Federal Communications Commission ("FCC or Commission"), hereby respectfully submits its Reply to the Opposition to Petition for Reconsideration (Havens's Opposition) filed in the above captioned matter by Warren C. Havens (Havens). In support of its position, Mobex shows the following.

Havens's Opposition Was a Bad Faith Pleading

Havens's Opposition makes no sense on its face. Regardless of whether Havens intends to participate in the forthcoming auction, as an incumbent licensee, he can only reasonably favor a 17 dBu service contour, the better to protect his existing authorizations. Instead, Havens merely took yet another opportunity to oppose Mobex for the sake of opposing Mobex. Havens's Opposition was simply a bad faith pleading, worthy of no consideration by the Commission.

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It does not appear from review of the Commission's Universal Licensing System data base that Havens has ever constructed any of the Automated Maritime Telecommunications Systems for which he was regularly authorized. Rather than bringing new service to the public promptly, Havens has been granted an extension of time to construct five of his six regular authorizations and he appears to be seeking a payday when someone buys him out of his portfolio of AMTS and other, unrelated licenses. It is ironic, therefore, that Havens protested Mobex's efforts to establish standardized coverage contours for all incumbents at 17 dBu, including himself. Further, Havens's allegation that Mobex is attempting to expand its coverage is disingenuous and without a shred of proof. Mobex's petition, when granted, will simply retain Mobex's continuous service based on the 17 dBu contours it used in its original applications. Ironically, when the Commission adopts a 17 dBu contour, it will most certainly expand Havens's footprint to the benefit of Havens. That Havens opposes such result reveals his true intent simply to utilize the FCC pleading process as a means to besmirch Mobex with unfounded allegations, repeated *ad nauseam* at every opportunity and in every venue he can imagine, and to file bad faith pleadings with the sole goal of damaging Mobex and wasting the valuable time of the Commission.

Havens Attempted to Raise Improper and Extraneous Issues

Havens attempted to raise issues which cannot be considered in the above captioned matter. At his page 4, Havens suggested that granting the petitions of Mobex and of Paging Systems, Inc. (PSI) would "decrease interest and bids in an auction." Section 309(j)(7)(A) of the Communications Act of 1934, as amended, specifically provides that in prescribing auction regulations, "the Commission may not base a finding of public interest, convenience, and

necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding,” 47 C.F.R. §309(j)(7)(A). Because Havens requested that the Commission do something which it cannot lawfully do, his position should be disregarded.¹ In the same paragraph, Havens suggested that granting the petitions of Mobex and PSI would decrease the territory available for a hypothetical service other than AMTS. Because Havens’s suggestion for a different use of the AMTS band was not within the scope of the instant proceeding, his position should be disregarded.

Havens’s questioning of the status of Mobex licenses was not material or relevant to any issue in the above captioned matter, was entirely outside the scope of the proceeding, and should be disregarded. Havens’s improperly placed attack on Mobex authorizations constituted nothing more than a very much untimely petition for reconsideration of the grant of Mobex licenses, barred by 47 U.S.C. §405(a). It requires no response here.²

¹ It may be noted that Havens’s point could not be reasonably made by an AMTS licensee who intended to compete for geographic area licenses. If Havens intends to compete, he could only reasonably hope for the lowest possible auction price. If, by his suggesting that he is opposed to lower prices, Havens was signaling that he did not intend to compete for geographic area licenses, then one must wonder why he chose to oppose Mobex’s petition for reconsideration since he would not be adversely affected by grant of Mobex’s petition.

² Since one may reasonably conclude that Havens does not intend to participate in the auction for AMTS licenses, and since his AMTS authorizations compete nowhere with Mobex, one is left to wonder why he demonstrates such antipathy to Mobex.

To the extent that the Commission might be misled in the instant rule making proceeding by a Havens error, Mobex hastens to correct Havens's assertion at his page 6 that Exhibit II to Mobex's petition for reconsideration was unexplained. Mobex explained at its pages 9-10 that "attached as Exhibit II hereto are maps of [the WATERCOM] system based upon 17 dBu contours. 38 dBu contours are also shown."

The VHF Maritime Service Contour Should Be Adopted

In its Petition for Reconsideration in the above captioned matter, Mobex made two essential points. One point concerned the incumbent service contour to be protected. The other point concerned the ratio of desired incumbent to undesired geographic area signal to be protected. Havens opposed Mobex on only one of those issues.

Mobex explained that it had designed its system to comply with the requirement of the Commission's Rules that it provide a continuity of service to a waterway. Relying on the Commission's Part 80 standard for VHF Public Coast stations, Mobex sited many of its stations to provide the required continuity of service using a 17 dBu service contour. The Commission considered each application and granted each based on the applicant's showing of continuity of service. Mobex had a reasonable expectation that the Commission would not disrupt the continuity of service which the Commission had required, which Mobex provides, and on which the public has come to rely.

Contrary to Havens's position, Mobex was entirely reasonable in relying on the VHF Public Coast station standard because the Automated Maritime Telecommunications System service *is a VHF Public Coast station frequency modulation service*. AMTS service is not similar in any way to the amplitude modulation, extremely narrowband, land mobile service in the 220-222 MHz band. In designing its systems, Mobex could have had no reason to expect that the Commission would ever look to private land mobile service rules, rather than to public maritime service rules for its service contour standard. The lack of a reasoned explanation for the Commission's choice demonstrates that Mobex could have had no reason to expect the Commission's action.

Service to the maritime public and the largest number of users.

Contrary to Havens's unsupported assumptions concerning Mobex's motivations, Mobex designed its coastal systems to serve maritime traffic in the most economical and practical manner available. When providing a new service, it was eminently reasonable for Mobex to concentrate its efforts in locations where it could provide the greatest amount of service to the largest number

of members of the maritime public, including areas which are major international ports and harbors.

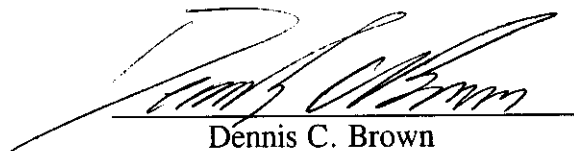
No One Opposed An Adequate Interference Protection Ratio

Although Mobex raised two principal issues in its petition for reconsideration, Havens opposed only one. Neither Havens nor any other party opposed Mobex's demonstration that an 18 dB carrier to interference ratio is required for reliable operation of an AMTS. Accordingly, the Commission can grant Mobex's petition for reconsideration to provide adequate interference protection for incumbent systems without the risk of further controversy.

Conclusion

For all the foregoing reasons, Mobex respectfully requests that the Commission dismiss or deny Havens's Opposition and grant Mobex's petition for reconsideration forthwith.

Respectfully submitted,
MOBEX COMMUNICATIONS, INC.



Dennis C. Brown

126/B North Bedford Street
Arlington, Virginia 22201
703/525-9630

Dated: October 7, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this seventh day of October, 2002, I served a copy of the foregoing
on the following person by placing a copy in the United States Mail, first class postage prepaid:

Warren C. Havens
2509 Stuart Street
Berkeley, California 94705

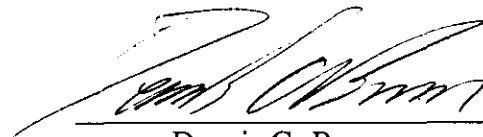

Dennis C. Brown

Exhibit 2: Articles and other public domain information that shows Mobex and Watercom were advertising and using their AMTS licenses for CMRS and not restricting service and offerings.

Following taken from: <http://www.allbusiness.com/environment-natural-resources/ecology-environmental/6441561-1.html>

[Underlining with Bolding in below added for emphasis]

Mobex Acquires Regionet Wireless; Milestone Expands Mobex's Reach to 30 of Top 40 U.S.

Publication: [Business Wire](#)

Date: [Tuesday, May 16 2000](#)

You are viewing page 2

Business Editors & High-Tech Writers

LAFAYETTE, Calif.--(BUSINESS WIRE)--May 16, 2000

Mobex Communications Inc., one of the nation's fastest-growing specialized mobile radio (SMR) companies, wireless integrators and network service providers, today announced the acquisition of Regionet Wireless (Regionet).

Regionet has licenses for more than 3900 channels in the Automated Maritime Telecommunications Systems (AMTS - 217MHz to 219MHz) band, in states and metropolitan areas along the United States' East and West Coasts, as well as the Great Lakes. Regionet is currently fully operational on the West Coast and is continuing to build out on the East Coast and Great Lakes.

The acquisition of Regionet follows on the heels of Mobex's announcement last week to acquire Waterway Communications System LLC (Watercom), another communications network provider in the same AMTS band. Watercom is licensed for more than 4000 channels and operates systems along the Gulf Coast, as well as the Mississippi, Illinois and Ohio Rivers, providing maritime communications to the river barge industry. **Mobex will be able to utilize this same spectrum to provide commercial SMR-like services in major centers along these waterways.**

With this latest acquisition, Mobex now has a dominant position in AMTS services in the United States and a significant wireless footprint that includes the top 30 metropolitan markets.

"Mobex has created a wide area contiguous footprint in the United States that is unparalleled in the AMTS or SMR industry. It enlarges the scale and scope of Mobex's entire network activities and raises the bar for the rest of the radio dispatch industry," said Will Greene, President and COO of Mobex Network Services. "Traditional

maritime customers and commercial radio customers alike can expect to receive the full benefits of the latest available technology in a footprint never before offered."

"This is a milestone in providing a seamless dispatch communications network," said Paul van der Heyden, President of Regionet. "This agreement gives us a unique opportunity to roll out a national infrastructure that will serve almost every major metropolitan area in the United States."

Van der Heyden stressed that current Regionet customers will not experience any disruptions in service as a result of this agreement. "Regionet's customers will continue to receive the same high quality service," said van der Heyden. "Our original strategic vision -- to provide seamless regional service -- has not changed. It has simply expanded to include more regions."

About Regionet Wireless

Regionet Wireless is a nationwide provider of networked, mobile radio dispatch services. Its unique system combines voice and data, as well as Automatic Vehicle Location (AVL) via Global Positioning System (GPS) as an additional integrated service offering. Regionet specializes in engineering custom communications solutions for individual businesses. It maintains the top level of functionality necessary to meet all specific requirements and excels in providing an overall level of system flexibility to cater to future communication needs. For additional information, visit the company's Web site at www.regionetwireless.com.

About Mobex Communications

Headquartered in Lafayette, Calif., Mobex Communications Inc. is one of the nation's fastest-growing specialized mobile radio (SMR) companies, wireless integrators and network services providers with more than 500 employees and operations in 20 states. Mobex serves the wireless telecommunications needs of many local commercial service companies in addition to major utility companies, public safety organizations, governmental agencies and telecommunications companies. Its clients include San Diego Power & Electric, Pacific Gas & Electric and the Dallas-Fort Worth International Airport, to name a few. Mobex owns and operates spectrum in the 900, 800 and 450 and now 217 AMTS MHz frequencies and has more than 65,000 subscribers. For more information about Mobex Communications, please visit its Web site at www.mobex.com.

Following taken from: <http://www.allbusiness.com/energy-utilities/utilities-industry-natural-gas/6475612-1.html>

[Underlining with Bolding in below added for emphasis]

Mobex Communications Seeks Manufacturer and TechnologyPartner for Build-out of Nationwide...

Publication: [Business Wire](#)

Date: [Monday, July 24 2000](#)

Business Editors & High-Tech Writers

SAN RAMON, Calif.--(BUSINESS WIRE)--July 24, 2000

RFP Issued in Effort to Establish Single Technology Across

Company's AMTS Operations

Mobex Communications Inc., one of the nation's fastest-growing wireless integrators,

network service providers and specialized mobile radio (SMR) companies, **has issued a request for proposal (RFP) in search of a company that can provide them with a single technology solution across Mobex's nationwide Automated Maritime Telecommunications Systems (AMTS) operations.**

Mobex owns licenses in the AMTS band in the 217 to 219 MHz band in 30 of the top 40 metropolitan markets and 82 markets overall, covering a total population of 174 million. The company gained much of this capacity through their recent acquisitions of Regionet and WATERCOM. The network that Mobex is now establishing with this spectrum will enable companies to better manage their rolling and floating assets and mobile employees; once it is fully operational, it will provide customers with voice communications, text status messaging, vehicle locator services, point of sales capability, remote control of field equipment, and remote access to business enterprise databases applications. Mobex is already marketing some of these features on their existing West Coast system.

In establishing this network, **Mobex officials said they are seeking a company that can help them establish a network with full Internet, IP and WAP capabilities.**

"We're looking at contenders both nationally and internationally," said Will Greene, Mobex Network Services President and COO. "We are seeking a strategic partner in the wireless or radio industry segments that can provide the robust solution needed to meet the needs of this network and the customers in the vertical industries that it will serve."

Greene added that the company hopes to identify a vendor by early Fall and have a contract signed in the fourth quarter of this year. Build-out of the network would begin immediately after that, based on equipment availability.

Interested companies that would like a copy of the RFP can contact Nancy Krajcar via email at nkrajcar@mobex.com.

About Mobex Communications

Headquartered in San Ramon, Calif., Mobex Communications, Inc., is one of the nation's fastest-growing wireless integrators, [network service providers](#) and specialized mobile radio (SMR) companies with three (3) business units with more than 500 employees and operations in 20 states. Mobex serves the wireless telecommunications needs of many businesses via its Commercial Services companies, in addition to major utilities, public safety organizations, governmental agencies, and telecommunications companies via its Managed Services division. Managed Services clients include SEMPRA Energy (formerly San Diego Gas & Electric), Pacific Gas & Electric, Philadelphia Electric Company (PECO) and the Dallas-Fort Worth International Airport, to name a few. Mobex owns and operates spectrum in the 900, 800 and 450 and 217-219 AMTS MHz frequencies via its Network Services Company and has more than 65,000 subscribers. For more information about Mobex Communications, please visit its [Web site](http://www.mobex.com) at www.mobex.com.

Following taken from: <http://www.allbusiness.com/government/government-bodies-offices/6437961-1.html>

[Underlining with Bolding in below added for emphasis]

Mobex Acquires WATERCOM from American CommercialLines; Services, Pricing to Remain Stable;...

Publication: [Business Wire](#)

Date: [Wednesday, May 10 2000](#)

You are viewing page 2

Business Editors

LAFAYETTE, Calif.--(BUSINESS WIRE)--May 10, 2000

Mobex Communications Inc., one of the nation's fastest-growing specialized mobile radio (SMR) companies, wireless integrators and network services providers, today

announced it has entered into an agreement with American Commercial Lines LLC (ACL) to acquire ACL subsidiary Waterway Communications System LLC (WATERCOM), **the marine industry's premier provider of automated ship-to-shore voice, data and telecommunication services.**

Headquartered in Jeffersonville, Ind., WATERCOM provides dependable communications for towboats, yachts, dredges, survey vessels, cruise/dinner boats, gaming vessels, government vessels, as well as offshore workboats and oil rigs. Its scope of operations covers 20 states on the Gulf of Mexico and along the Mississippi, Illinois, and Ohio rivers.

The acquisition gives Mobex control of WATERCOM's spectrum, covering 80 channels in each of 33 markets, broadcasting at 217 MHz under the Automated Marine Telecommunications Service (AMTS). The transmission sites in each market can be linked to create a contiguous wide area network, providing coverage along the waterways and serving communities in the Midwest and Gulf coast.

Under the terms of the agreement between Mobex and ACL, WATERCOM will continue to provide services to ACL, who will be a key WATERCOM customer. "The sale of WATERCOM allows ACL to further concentrate on our core business with the security of knowing that Mobex is well positioned

to meet our vessel communications requirements," said Michael Hagan, ACL's president and chief executive officer.

Mobex officials stressed that existing WATERCOM customers can expect to see the same level of quality service to which they are currently accustomed.

"WATERCOM's present customer base can rest assured that they will receive uninterrupted, reliable service," said Will Greene, president and COO of Mobex/Network Services. "In addition, they can expect costs to remain stable as there are no pricing changes planned." Greene added that customers can look forward to various technology upgrades to WATERCOM's services in 2001 that will ensure they receive the benefits of the latest technology available.

WATERCOM has built a reputation for quality installation, 24-hour customer service and competitive pricing in providing the specialized technical expertise that today's marine electronic systems demand. "WATERCOM's professional and dedicated staff have a long history of meeting and exceeding customer requirements, and I'm fully confident that trend will continue under the ownership of Mobex," said John G. Smith, vice president and general manager of WATERCOM.

The transaction is subject to customary review and approval of various governmental agencies, including the Federal Communications Commission and the Federal Trade Commission.

About American Commercial Lines

American Commercial Lines LLC is a fully integrated network of marine transportation companies, operating more than 4,300 barges and 200 towboats on the inland waterways of North and South America. ACL transports more than 70 million tons of freight annually. Additionally, ACL operates marine construction, repair and service facilities, and river terminals. More information about ACL can be found at www.aclines.com.

Communications Equity Associates LLC represented WATERCOM in this transaction.

Following taken from: http://findarticles.com/p/articles/mi_m0EIN/is_/ai_61993128

[Underlining with Bolding in below added for emphasis]

Mobex Acquires WATERCOM from American Commercial Lines; Services, Pricing to Remain Stable; WATERCOM To Continue Serving ACL and Existing Customers

Business Wire, May 10, 2000

- [E-MAIL](#)
- [PRINT](#)
- [LINK](#)

Business Editors

LAFAYETTE, Calif.--(BUSINESS WIRE)--May 10, 2000

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Related Results

- [Mobex acquires Watercom from ACL](#)
- [Mobex Acquires WATERCOM from American Commercial Lines; Services, Pricing to... Trust, E-innovation and Leadership in Change](#)
- [Building Your Brand With Brand Line Extensions](#)
- [The Impact of the Structure of Debt on Target Gains](#)

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Mobex officials stressed that existing WATERCOM customers can expect to see the same level of quality service to which they are currently accustomed.

"WATERCOM's present customer base can rest assured that they will receive uninterrupted, reliable service," said Will Greene, president and COO of Mobex/Network Services. "In addition, they can expect costs to remain stable as there are no pricing changes planned." **Greene added that customers can look forward to various technology upgrades to WATERCOM's services in 2001 that will ensure they receive the benefits of the latest technology available.**

WATERCOM has built a reputation for quality installation, 24-hour customer service and competitive pricing in providing the specialized technical expertise that today's marine electronic systems demand. "WATERCOM's professional and dedicated staff have a long history of meeting and exceeding customer requirements, and I'm fully confident that trend will continue under the ownership of Mobex," said John G. Smith, vice president and general manager of WATERCOM.

The transaction is subject to customary review and approval of various governmental agencies, including the Federal Communications Commission and the Federal Trade Commission.

About American Commercial Lines

American Commercial Lines LLC is a fully integrated network of marine transportation companies, operating more than 4,300 barges and 200 towboats on the inland waterways of North and South America. ACL transports more than 70 million tons of freight annually. Additionally, ACL operates marine construction, repair and service facilities, and river terminals. More information about ACL can be found at www.aclines.com.

Communications Equity Associates LLC represented WATERCOM in this transaction.

About Mobex Communications

Headquartered in Lafayette, Calif., Mobex Communications Inc. is one of the nation's fastest-growing specialized mobile radio (SMR) companies, wireless integrators and network services providers with more than 500 employees and operations in 20 states. Mobex serves the wireless telecommunications needs of many local commercial service companies in addition to major utility companies, public safety organizations, governmental agencies, and telecommunications companies. Its clients include San Diego Power & Electric, Pacific Gas & Electric, and the Dallas-Fort Worth Airport, to name a few. Mobex owns and operates spectrum in the 900, 800 and 450 and now 217 AMTS MHz frequencies and has more than 65,000 subscribers. For more information about Mobex Communications, please visit its Web site at www.mobex.com.

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Following taken from:

<http://www.bizjournals.com/orlando/stories/2004/07/12/story1.html?page=2>

[Underlining with Bolding in below added for emphasis]

Friday, July 9, 2004

Telecom dealer banking on radio revival

Statewide network now being tested.

Orlando Business Journal - by [Chad Eric Watt](#) Senior Staff Writer

ORLANDO -- **Just before a meeting with the execs at phone service and repair firm Central Communications Networks Inc., John Reardon** happened to meet a local stucco contractor in the lobby.

The stucco contractor had brought a five-gallon paint bucket with him. Inside the bucket: broken cell phones the contractor wanted fixed.

That was a good omen for Reardon, chief executive officer of telecommunications firm Mobex Network Services LLC: It revealed a need in the business community for more two-way radio service.

Reardon since has leased the usage of radio spectrum owned by his company to Orlando-based Central Communications Networks for its buildout of a new radio network across the middle of Florida.

Customers like the stucco contractor are waiting for it, Reardon says.

And it **could mean big bucks for companies such as Central Communications Networks and Mobex Network Services. Consider: Two-way radios and related work represents about 12 percent of total sales at Motorola Inc., a longtime radio maker and the company that invented the cellular telephone.**

The radio business, including government and public safety work, brought in \$1 billion in sales for Motorola in the first quarter of 2004. That's up 18 percent from the prior year.

Meanwhile, Central Communications Networks began testing its new radio network this month, which runs the length of Interstate 4. The company declines to say what the buildout cost, but it's been described as the largest system of its type ever sold by radio maker Motorola. "It's a lot of money for an old lady like me to be spending," says Grace Lindblom, president of Central Communications Networks.

Cell phones have proven handy for contractors, landscapers and other businesses that work on the road. But a growing number of firms are getting fed up with paying for employee cell phones, says Lindblom.

One reason is cost.

A fleet of trucks doesn't necessarily mean a company needs a fleet of cell phones, she says.

Another reason some companies now prefer radios over cells: In rough-and-tumble businesses such as stucco contracting, cell phones break. Radios may cost more, but they're sturdier, says Reardon.

And then there's accountability. Lindblom says some bosses miss being able to hear every conversation from the workplace.

Building the statewide radio network is a homecoming and a risk for Central Communications Networks.

The firm was a radio dealer in the era before cellular service. It operated radios in the frequency range now used by cell phone giant Nextel. Central Communications Networks also is an original Nextel dealer in one of the system's most popular states.

Lindblom says Nextel has raised concerns that its dealer would sell a rival product. But she says the radios aren't really competition for Nextel systems. "The segment of the market we're going after (is one) they don't have anyway," says Lindblom.

Central Communications Networks has hung 14 antennas to cover the middle of the state and leased the spectrum space from Mobex to set up networks that allow two-way and group calling. The group calling feature is what sets radio apart from cellular systems, Lindblom says.

Mobex's Reardon says a fleet radio system is all many businesses really need. "The cellular industry has taken a lot of customers away from the two-way industry that really belong in the two-way industry," he says.

Arlington, Va.-based Mobex owns the airwaves in frequencies between 217 and 219 megahertz. Motorola makes a radio and antenna system for that frequency range.

Meanwhile, Nextel operates in the 800-900 megahertz range, and other cell systems operate even higher.

The lower frequency has some advantages, Reardon says. For example, it previously was used only for maritime communication, so there's little chance for interference, he says.

And radios in the modern era can carry much more than the human voice. Beyond chatter, radio systems can handle text messaging, vehicle location tracking and event-driven data, Reardon says.

But its biggest advantage is in signal reach: One antenna can reach much farther than a cellular antenna, Reardon says. That translates into a less-expensive build-out for the antenna owner -- and cheaper airtime for the radio user, he says.

Central Communications Networks plans to charge \$50 a month per radio for all the communication a company can stand, says Lindblom. That compares with about \$36 a month for a bare-bones local Nextel radio service plan, but extra usage fees could apply, and quickly add up.

Central Communications Networks says it has at least two dozen customers, some interested in hundreds of radios, waiting for the system to go live. "We're taking a chance," Lindblom says. "I hope we're right."

Following taken from:

http://www.satamatics.com/pub/news/action=article/cpr=cpr0010/vcpr=1/MOBEX_Signs_Up_with_Satamatics_in_Marine_Market_Push.htm

[Underlining with Bolding in below added for emphasis]

Monday, 9th September 2002

MOBEX Signs Up with Satamatics in Marine Market Push

Satamatics Ltd, the operator of global satellite-based telematics information services, has secured MOBEX, the American marine industry specialist, as its latest Application Service Provider. **MOBEX (Jeffersonville, Indiana) is supplying asset-tracking services to the commercial and recreational marine industries, across North and South America, working through Satamatics Americas, based in Ocala, Florida.** A significant driver for this signing was the recent FCC authority, which has enabled Satamatics to provide mobile satellite services across the US. Key commercial applications for the services include asset tracking for barge owners and operators, an application area for which MOBEX already has an extensive track record. The potential barge market alone in the US for the MOBEX/Satamatics service can be measured in the tens of thousands of units.

External towing and fleeting are key components of barging, resulting in barge owners needing to be able to check the position and cargo status of their valuable assets at regular intervals. Satamatics' solution includes a programmable solar-powered satellite transceiver, communicating via the Inmarsat Satellite Network, to provide an array of remote monitoring and control facilities. These range from simple position reporting, through to monitoring water levels in voids within a barge and controlling pumps automatically.

Ged O'Connell, Director of Marketing at MOBEX, explains:

*"Satamatics has control of its own network from end-to-end, including operation of its own Satellite Gateways. This allows us to provide reliable communications, based on Satamatics' proven, stable platform. Combining this level of stability with the broad flexibility of Satamatics' low-cost transceiver hardware enables us to offer very economical services for a huge variety of asset-tracking applications. **These services will be delivered direct to customers' desktops via the Internet. We have immediate demand from our existing customer base, and although our initial focus will be on the commercial marine market, we are also seeing interest from the recreational and marine charter sectors - we will be applying the same technology to the railway industry and to road transport. The rental industry - from cars and trucks to heavy plant and agricultural equipment - also represents a prime area for us, as does any application where an owner needs an economical method for tracking the position and operational status of their remote assets.** The solutions that have come out of our partnership with Satamatics provide both our companies with the potential for rapid service take-up."*

Satamatics occupies a dominant market position in the telematics industry, due to its unique ability to provide coverage across all the world's oceans - including the Pacific region - using the Inmarsat D+ Satellite Network. By maintaining operational control through its own Gateways to the Inmarsat

Network, Satamatics can scale its service capacity to suit demand, removing any oversubscribing limitations, as well as providing a stable and secure communications medium, with fast reporting. Peter Chisholm, CEO of Satamatics Ltd, commented:

"This is a major first for us in the US marine sector. Having MOBEX on board is key to our growth in this region. It represents the next vital step in capturing market demand, and securing MOBEX as our partner ASP for these markets was an important part of our strategy. It opens access to the immense potential that exists for marine tracking and security monitoring applications, across the inland and coastal waterways of the Americas. MOBEX has a long and proven track record in the marine industry and is ideally placed to realise the full market possibilities in this sector."

MOBEX will be using Satamatics' SAT-TDi Intelligent Satellite Terminal, which combines a GPS receiver with a D+ transceiver system, and offers two-way messaging with remote control capability. It can be interfaced to a variety of sensors and controllers, capable of switching external equipment, when a particular condition or position has been reached or exceeded. The SAT-TDi Terminal communicates at programmed intervals, providing position and status reports. The data is transmitted via Inmarsat's geostationary satellites, and thence via the Satamatics Satellite Gateways, which are installed in strategically located land earth stations to provide seamless global coverage.

About MOBEX

MOBEX is centrally located in the US, in Jeffersonville, Indiana, with a 24-hour customer service department. MOBEX has more than 17 years' proven track record in the marine electronics and telecommunications industries, and has pioneered the use of terrestrial wireless communications for inland waterways. The company has an extensive data management infrastructure, providing customer-ready applications where required, together with direct support for customers and Internet Service Providers. **MOBEX also owns radio spectrum in 45 of the top 50 metropolitan areas in the US and is currently building out dispatch systems in those markets.** Additionally, MOBEX operates Mobex Managed Services, a systems integrator and a provider of field service applications.

MOBEX acquired WATERCOM in September 2000 from American Commercial Lines and continues to operate a wireless telecommunication system that covers over four thousand miles of Inland Waterways in the United States. WATERCOM pioneered the use of fax machines, duplex voice and end-to-end data on the inland waterways system. WATERCOM also brought television tracking satellite antennas to the industry that allowed users to receive digital programming.

About Satamatics

Headquartered in the UK, Satamatics has a centralised data-handling centre in London, with Satellite Gateways installed in strategically located Land Earth Stations around the world. These provide genuinely global coverage across the world's ocean regions and land masses - for fleet management, asset tracking and tracing, controlling and monitoring remote sites, and for security applications.

Satamatics' information services operate via the well-proven Inmarsat D+ satellite network, and the company is unique in being able to provide coverage across the Pacific Ocean region, and throughout the US.

Satamatics' worldwide telematics services provide the critical enabling technology for track and trace monitoring, two-way messaging and SCADA (Supervisory Control and Data Acquisition) capabilities for remote installations. The company's satellite-based solution overcomes the issues associated with the sparse or non-existent coverage offered by conventional land-based wireless infrastructure in many

countries, and provides seamless coverage across land and sea. An integral part of the company's service offering, is its unique design of remote transceiver - an intelligent, configurable terminal capable of processing and logging data locally, and remote re-programming. The whole ethos is geared to ensuring end-users receive only the specific information they need when they need it - rather than raw, unwanted data at inflexible intervals.

Satamatics Ltd and Satamatics Americas (a division of Richtec, Inc) are part of the Richtec plc group of companies, which has a long history of close involvement with Inmarsat, and is active across a range of communications, electronics and process control technologies, with an annual turnover in excess of £17 million.

For further information, please contact:

Geoffrey Tamulonis
Satamatics Ltd
Gloucester Road
Tewkesbury, Gloucestershire
GL20 5TT, UK
Tel: +44 (0)1684 278610
Fax: +44 (0)1684 278611
info@satamatics.com
www.satamatics.com

Georgina Garrett/Simon Jones
Garrett Axford
Harbour House, 27 High Street
Shoreham by Sea, West Sussex
BN43 5DD, UK
Tel: +44 (0)1273 441200
Fax: +44 (0)1273 441300
mail@garrett-axford.co.uk
www.garrett-axford.co.uk

Ged O'Connell
MOBEX Network Services
453 East Park Place
Jeffersonville, Indiana 47130
Tel: 812-288-1612
Fax: 812-288-1764

Exhibit 3: Public domain information regarding MCLM listing its entire AMTS spectrum as available for sale with Spectrum Bridge.

Following taken from: http://www.spectrumbridge.com/pdf/SpectrumBridge_MCLM-Release.pdf

Maritime Communications/Land Mobile LLC Lists Entire Spectrum Portfolio

on Spectrum Bridge's Online Marketplace

Exclusive Listings Cover Over 250 Million People in 85 of the Top 100 US Markets, and can be

Used for a Variety of Telecommunications Services

JEFFERSONVILLE, Ind. and LAKE MARY, Fla.—October 6, 2008—Maritime Communications/Land Mobile (MCLM) has entered into an exclusive relationship with Spectrum Bridge Inc. to list their VHF spectrum portfolio on SpecEx, the online marketplace for spectrum™. MCLM's extensive holdings can be used for a variety of applications under FCC rules. The spectrum is highly desirable due to its propagation characteristics, which are much better than the 700 MHz band recently auctioned by the FCC for close to \$20 billion. All MCLM licenses have met substantial use requirements, so buyers can deploy new networks in the most profitable areas first and expand into additional markets at any pace they desire. A prospectus for the MCLM spectrum offering can be requested by visiting SpecEx.com.

"The Internet changes everything," remarked MCLM's President and CEO, John Reardon. "We determined that the Spectrum Bridge proposal for an online spectrum marketplace was the best choice for MCLM. The online SpecEx marketplace, combined with Spectrum Bridge's wireless and marketing expertise, made it an attractive choice for us," said Reardon. "SpecEx provides spectrum holders like MCLM with unique access to qualified buyers, while at the same time lowering our transaction costs when compared to traditional spectrum brokers. The SpecEx online marketplace is going to fuel the wireless industry in terms of access to spectrum and development of new wireless devices and services."

MCLM notes that radios, applications and other equipment for the MCLM spectrum are readily available from major manufacturers. The coverage and bandwidth of this spectrum make it ideal for a wide range of industries and applications including:

- Container Tracking
- Construction
- Digital Billboard and Sign Control
- Enhanced AIS-type Services for Maritime Vessels
- Fleet Management
- Mining
- Oil and Gas
- Private Land Mobile Radio
- Ports and Airports
- Public and Private Utilities
- Rail and Shipping

"We are pleased to exclusively represent MCLM's extensive spectrum holdings," said Richard Licursi, CEO of Spectrum Bridge. "With its excellent coverage, completed build-out requirements and applications flexibility, these licenses will appeal to a wide range of buyers. We offer major spectrum holders like MCLM a new business model that leverages online technology to create unmatched market visibility and transaction efficiency."

To request a detailed map and information for MCLM and other spectrum listings, please visit SpecEx.com. Spectrum holders or seekers who want to learn more about leveraging the SpecEx marketplace to buy, sell or lease spectrum assets can contact Mickey DeChellis at 407-792-1570 x513.

About MCLM Spectrum Licenses Described In This Press Release

These licenses are designated by the FCC as Automated Maritime Telecommunications Service ("AMTS") licenses; the AMTS licenses permit licensees such as MCLM (pursuant to part 80 rules) to provide a wide range of land-based and/or maritime services, including wireless data, voice, video, telemetry, and tracking services such as container or asset tracking.

MCLM currently holds between 1 MHz and 2 MHz of spectrum, which is equivalent to between 40 and 80 channels if utilized with 12.5 kHz equipment. Users can choose whatever bandwidth they require for their equipment, such as 7.5 kHz or 25 kHz, etc. Bandwidth may be aggregated up to 500 kHz or 1 MHz per channel for data and video applications in areas with 1 MHz or 2 MHz of total spectrum bandwidth respectively. The propagation characteristics of the 217-219 MHz band make it ideal spectrum for covering long distances.

About Spectrum Bridge Inc.

Spectrum Bridge Inc. (SBI) has created SpecEx, the world's first online marketplace for spectrum. The

company's solution allows the entire wireless ecosystem of spectrum holders, equipment providers and system integrators to profit from serving the growing demand for reliable business and mission-critical connectivity from wireless communications system users. Established in March 2007 by wireless networking industry veterans, Spectrum Bridge is a privately held company headquartered in Lake Mary, Florida. For more information, please call 866-598-7426, or visit www.spectrumbridge.com.

About Maritime Communications/Land Mobile LLC

Founded in 2005, Maritime Communications/Land Mobile, LLC ("MCLM") owns exclusive FCC licenses covering nearly 300 Million MHz/Pops, including 85 of the top 100 cities, such as New York, LA, Chicago, Miami, Dallas, etc. The licenses are regional, so in addition to city centers, they cover broad geographic areas, including the Atlantic Coast, the Pacific Coast, the Great Lakes, the Gulf of Mexico and the entire Mississippi River Basin.

Following taken cut and pasted from the following pdf:

http://www.spectrumbridge.com/pdf/The_Spectrum_Connection-by_Spectrum_Bridge.pdf



Dear Spectrum Bridge Friend:

Welcome to the first edition of Spectrum Bridge's newsletter:

The Spectrum Connection. Our goal is to provide education and analysis to those interested in the technical, regulatory and industry developments effecting spectrum in the United States.

As you will see in this issue, we are readying our SpecEx marketplace to support online electronic trading and transactions at the end of this month. This and other new capabilities will make it easier, faster and more cost effective to buy, sell and lease spectrum. Spectrum holders have listed nearly \$300 million of spectrum on SpecEx, including MCLM LLC., offering 1MHz to 2MHz of "220 MHz" spectrum in 85 of the top 100 markets. Additional spectrum is continuously being added, so check **specex.com** frequently to see the latest offerings, or to make spectrum requests – we'll do our best to locate it for you.

This month we are fortunate to have a great piece on WiMax and its application in private enterprise networks by Carl Townsend, who serves as President and Editor in Chief for **WiMax.com**. Our own CTO, Peter Stanforth provides a brief primer on public vs. private regulation of spectrum and how these ideas led to the creation of Spectrum Bridge.

We hope you enjoy this inaugural issue of The Spectrum Connection and welcome your feedback, and ideas for future topics you might like to see in our upcoming issues.

Sincerely,

Richard Licursi

President and CEO

Spectrum Bridge Inc.

The Launch of SpecEx

By: Joe Hamilla, COO, Spectrum Bridge, Inc.

Launching on October 30th, 2008, SpecEx online takes wireless towards the next step in a new generation of applications and services. SpecEx members can search our latest spectrum listings by frequency, location, and application. License holders can use new tools on SpecEx.com to create listings for their spectrum or have Spectrum Bridge work with them on optimizing their listings to reach the greatest number of qualified buyers in the marketplace. Spectrum Bridge created SpecEx in order to enable new growth in wireless communications - an environment conducive to

new applications, innovative services, and new cutting edge companies needed to be created. SpecEx is poised to open up the airwaves

Spectrum Spotlight

Maritime Communications/Land Mobile LLC Lists Entire Spectrum Portfolio with Spectrum Bridge

Maritime Communications/Land Mobile (MCLM) has entered into an exclusive relationship with Spectrum Bridge Inc. to list their VHF spectrum portfolio on SpecEx.com. MCLM's extensive holdings cover 250 million POPs in 85 of the top 100 markets in the US and can be used for a variety of applications under FCC rules. The spectrum's propagation characteristics are up to four times better than the 700 MHz band recently auctioned by the FCC for close to \$20 billion. All MCLM licenses have met substantial use requirements, so buyers can deploy new networks in the most profitable areas first and expand into additional markets at any pace they desire. These licenses are designated by the FCC as Automated Maritime Telecommunications Service ("AMTS") licenses; the AMTS licenses permit licensees such as MCLM to provide a wide range of landbased and/or maritime services, including wireless data, voice, video, WiMax, telemetry, and tracking services such as container or asset tracking.

MCLM currently holds between 1 MHz and 2 MHz of spectrum, which is equivalent to between 40 and 80 channels if utilized with 12.5 kHz equipment. Users can choose whatever bandwidth they require for their equipment, such as 7.5 kHz or 25 kHz, etc. Bandwidth may be aggregated up to 500 kHz or 1 MHz per channel for data and video applications in areas with 1 MHz or 2 MHz of total spectrum bandwidth respectively. The propagation characteristics of the 217-219 MHz band make it ideal spectrum for covering long distances with few tower sites needed.

MCLM notes that radios, applications and other equipment for their spectrum are readily available from major manufacturers and the coverage and bandwidth of this spectrum makes it ideal for a wide range of industries and applications including:

- Container Tracking
- Construction
- Digital Billboard and Sign Control
- Enhanced AIS-type Services for Maritime Vessels
- Fleet Management
- Mining, Oil and Gas
- Private Land Mobile Radio
- Ports and Airports
- Public and Private Utilities
- Public Safety, Emergency/Disaster and Security applications

To request a detailed map and information on MCLM and other spectrum listings, contact Dave FitzGerald at (703) 915-1956, or Mickey DeChellis at 407-792-1570 x513.

Following from: http://urgentcomm.com/networks_and_systems/news/spectrum-bridge-vhf-spectrum-1008/

SPECTRUM BRIDGE ANNOUNCES ALMOST-NATIONWIDE LISTING OF VHF SPECTRUM

Oct 8, 2008 10:20 AM, By Donny Jackson

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Spectrum marketplace firm Spectrum Bridge this week announced that Maritime Communications/Land Mobile (MCLM) is listing its entire VHF spectrum—covering 85 of the top 100 U.S. markets—on SpecEx, the Spectrum Bridge online marketplace.

Although Spectrum Bridge launched SpecEx a month ago with a spectral inventory the company valued at \$250 million, MCLM is the first entity to be announced as listing its airwaves on the web site. MCLM President and CEO John Reardon said he believes SpecEx could impact the spectral marketplace as eBay has impacted consumer goods.

“This seemed to be the best way for people to get information about our spectrum,” Reardon said, specifically noting public-safety agencies as a potential target audience. “These are buyers you might not have ever been able to identify without the power of the Internet.

“That’s why we went with Spectrum Bridge. I really see it as a game-changer in the way that spectrum is bought and sold.”

MCLM is listing spectrum in the 217-219 MHz band that provides coverage to more than 250 million people in the United States, including top markets such as New York City, Los Angeles, Chicago, Miami and Dallas. Although designated by the FCC in the 1980s as automated maritime telecommunications services (AMTS) licenses, the agency has since allowed more flexible uses for the band, including land mobile radio, SCADA and telemetry, Reardon said.

A buyer of the spectrum would have to assume a few long-term contracts with public-safety entities such as the New Jersey Turnpike Authority, but the “vast majority” of MCLM’s customers operate on month-to-month contracts, Reardon said. As a result, a buyer would be able to utilize the spectrum for new types of applications if it wanted, he said.

Key features of the spectrum are its excellent propagation characteristics and the fact that the buildout requirements already have been met, so there would be no regulatory obligation for a buyer to expend additional capital on the network in the near term, Reardon said.

Getting MCLM to list on SpecEx was a “big win” for Spectrum Bridge because MCLM also considered using several established spectrum brokers before opting to list the airwaves online, said Rick Rotondo, vice president of marketing for Spectrum Bridge. The fact that the spectrum is almost nationwide should make it attractive to a wide variety of potential buyers, he said.

“This kind of spectrum—and this much of it—doesn’t come available that often,” Rotondo said.

The SpecEx auction for the MCLM spectrum is expected to begin in early December.

Maritime Communications/Land Mobile LLC Lists Entire Spectrum Portfolio on Spectrum...

Mon Oct 6, 2008 8:04am EDT

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Maritime Communications/Land Mobile LLC Lists Entire Spectrum Portfolio on Spectrum Bridge's Online Marketplace

Exclusive Listings Cover Over 250 Million People in 85 of the Top 100 US Markets, and can be Used for a Variety of Telecommunications Services

JEFFERSONVILLE, Ind. & LAKE MARY, Fla.--(Business Wire)--
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Fusion Public Relations
Bob Geller, 212-651-4224
Bob.Geller@fusionpr.com

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